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Proceedings of the Annual Meeting of the State Bar Association of North Dakota

North Dakota State Bar Association

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Proceedings of the Annual Meeting of the State Bar Association of North Dakota

MORNING SESSION, JUNE 23, 1960

PRESIDENT ILVEDSON: Gentlemen, I now call the State Bar Association's Sixtieth Annual Meeting to order.

One of the first things as president that I have to do today is appoint two committees, and one is the auditing committee. On the auditing committee I have appointed Linn Sherman, John Williams and Lee Forsgren, and Linn Sherman, you are chairman. You will make your report back to us tomorrow morning at about 11:00 o'clock.

Then for the resolution committee we have our old stalwart, John Storman as chairman, and the other members of the committee will be Donald Holand and Bill Murray. So John, you be prepared to report back as representing the resolutions committee tomorrow.

Now, at this time I would like to call your attention to the fact that last year we halfway adopted a new Constitution and By-laws, and under the old Constitution such a move to amend the Constitution had to lay over one year. The By-laws were adopted so at this time I would like to entertain a motion that we do adopt the Constitution that was read to you last year. Last year it was printed in a sectional booklet so every one of you took it home and you know what it is.

We have been operating under it the past year. Frank Jestrab of Williston was chairman of that committee. I wonder, Floyd Sperry, is he here? Is there any explanation needed besides that?

MR. FLOYD B. SPERRY: I don't think so, Mr. President, except that the amendments were very minor ones. Our Constitution is very short to begin with, and I don't know whether you want to have reviewed the amendments that were made last year or presented last year or whether you just want a motion to have them adopted.

PRESIDENT ILVEDSON: I think inasmuch as they were printed in a sectional booklet and every lawyer was given one, I would think a motion to adopt this Constitution should be sufficient . . . The motion is carried.

PRESIDENT'S ANNUAL REPORT

Gentlemen, I do have a report to make, and some of this is in the sectional booklet and some is not. We have had another fine year, and as I stated in the first page of your sectional booklet, the thanks go to the committee chairmen who have worked so hard and the members of the committees. The lawyers here that have worked in the past as members of the committees and as chairmen

know how much work there is to these jobs. There are also a number of subcommittees headed by various chairmen who did a great deal of work, and you will hear of their reports later during our annual meeting. I had the pleasure of attending several committee meetings, and I can't help but think of one or two especially.

I think every lawyer here would have been proud of your State Bar Association if you could have sat in those committee meetings, if you could have seen the wonderful attendance and the work and effort put in by all the members. It would have made you really feel good, and then you would understand why in American Bar Association circles we are known as the Bar Association that gets things done.

We do have a good, active Bar Association. A few years ago a lawyer who moved to North Dakota from another state after having practiced law in several states made the statement at an annual meeting here — well, not here, but I can't remember the town now; but he made this statement: That you have the best Bar Association in the United States.

Well, I think that is argumentative and may not be true, but I am willing to bet that we consistently have one of the finer Bar Associations in the country. In the first place, we have an integrated Bar, and every licensed lawyer is a member. We understand that we were the first Bar Association in the United States to have an integrated Bar. Since then some other Bar Associations have begun integrating, and believe me, there are many who wish they were integrated.

We have a record of achievements for many years that can be looked upon with envy by other Bar Associations. We get things done, as I said, because the lawyers work together on projects, and in that regard I would like to say that in my opinion the lawyers in North Dakota get along with each other especially well. There is no question but that they are fighting for their clients at all times, but when the smoke of legal battles has cleared away, they are still good friends and they still have tremendous respect for each other.

We should be concerned with the practice of law as a profession. We should be concerned with the future. In the first place, there is a shortage of lawyers. It looks like less and less young men and women are interested in becoming lawyers. Dean Thormodsgard tells me that since 1955 there has been a decline — not a large one — but a decline in the number of law students graduating at the University, and that is true all over the country. Dean Albert J. Harno of the University of Illinois School of Law stated in July, 1957, in his farewell letter to the alumni:

"The fact is that there is today a serious shortage of lawyers and in my judgment that shortage will become definitely more acute before there will be any improvement in the situation. What is believed and accepted generally is that the legal profession is overcrowded. This is a question on which the profession and the public is generally so misinformed that I hesitate even to mention it."

There has been a downward trend, as I say, for years; and some wonder whether that trend is not in proportion to the downward trend in income in comparison with the general rise in inflation and income of other professions.

The July, 1958, American Bar Journal quotes statistics from the United States Department of Commerce showing the income of doctors and lawyers since 1930; and in 1930, for instance, the lawyers made five thousand dollars, and a little over; the doctors forty-eight hundred per year. In 1940 the lawyers made forty-five hundred dollars, and the doctors, forty-four hundred. In 1950 the lawyers made about eighty-eight hundred, and the doctors fifteen thousand; and in 1955 the lawyers made about ten thousand, and the doctors eighteen thousand.

When these figures were released, various lawyers wrote to the American Bar Journal, and it was interesting going back and reading some of those letters, and they expressed their opinions — or let's say, made guesses as to why this happened. Some thought it was due to the improvement in the efficiency that doctors have made in handling patients. Some said, "Well, you never catch doctors charging insignificant fees."

The author in one article in the ABA Journal concludes that our standards are not high enough, and he said this in a very studious article:

"The decline in the relative economic position of the legal profession is merely a symptom of a general failure on the part of the bar to keep professional standards adjusted to the current needs and economic demands of society.

"The medical profession has continued to maintain and raise its standards so that the chances of the public being served by an incompetent doctor are considerably less today than the chance of being served by an incompetent lawyer."

And then in this connection I might say there have been numerous articles in the American Bar Association Journal in which authors have pointed out that during the past thirty years the law as a profession has lost a lot of business because of the unwillingness of the lawyers to learn something new at various times.

Regardless of the reasons advanced for this decline in income in proportion to the general rise of income in the other professions, I would like to read from another article:

"We all know lawyers possessing fine training and abilities who end up with about the same size mortgage on their homes that they placed there during their first few years of practice, who hesitate to evaluate their time and effort at least equal to those of a plumber, bricklayer, or electrician, who are conscious of substantial real estate commissions being paid in transactions participated in by them, but who are hesitant when they submit bills in small fraction of what the realtor collects for less responsibility and effort, who are very conscious of the charges being made by other professional men such as doctors, architects, and engineers."

Whether we agree with that statement or not, it was from an article in the American Bar Journal after a careful study and analysis of the situation. I think and I believe that we owe it to our profession to keep on doing some thinking and studying in this field of legal economics.

Tomorrow two of the members of our Association, Mr. A. J. Greffenius and Mr. Norman Tenneson, will present to you a minimum fee schedule. I know the great amount of work that has gone into this schedule. Believe me, it has been hours and hours.

I am also sure that John C. Satterfield tomorrow noon will have something to say on this subject although I do not know the exact topic. I also know that Mr. Kline D. Strong who is going to appear here tomorrow morning, I believe, or in the afternoon, depending on when he gets here, will have a real message to give you.

As I stated in the Newsletter not long ago, I hired Mr. Strong at Chicago at the Midwinter Meeting of the ABA, and he has really a tremendous message for you. When he finished his talk, lawyers were up crowding around his desk asking more questions.

Of course, also, gentlemen, our profession requires a high standard of competence; and we all recognize the necessity of continual study and the necessity of programs of continued legal education.

We must also make the public aware of the functions of lawyers, the kind of work we do and the high qualifications and education needed to become lawyers. Every lawyer wants his profession to command respect whether or not he has a son or daughter that is going to enter the profession of law.

We as individual lawyers can do much in our home communities to better relations with the public. As a Bar Association we have that responsibility even more so. As lawyers we must understand that we have professional responsibilities to the courts for the continual improvement of the administration of justice. We are officers of the court, and there is no other group, association or profession in whose lap that duty lies except our very own.

What legislation we advance or propose for good purposes depends to a large extent upon the confidence that the public has in the profession as a whole. Let's not get so busy, let's not become so busy in our home communities that organizations and community clubs find it difficult to secure a lawyer to appear on such occasions as Memorial Day, Commencement, Citizenship or Flag Day. Let's not ignore the patriotic duty we have on behalf of supporting our constitutional form of government.

John W. Davis, former president of the ABA, stated this as our supreme function: "To be sleepless sentinels on the ramparts of human liberty and there to sound the alarm whenever an enemy appears."

And the late Chief Justice Vanderbilt of New Jersey said in an article, after noting that we live in an age in which the world is being made over socially and economically, stated this:

"In such periods of revolution the law as well as society changes rapidly and this calls for far greater ability in the legal profes-

sion than in ordinary times when routine and precedent will suffice. It calls for men like Washington and Adams, Hamilton and Jefferson in statecraft, like Madison among constitution-makers, and Marshall among interpreters of the Constitution, like Kent and Story among judges and law teachers."

Gentlemen, leadership in public affairs is our tradition and inherited responsibility. We can do much to increase respect for the law as well; and when you think of the gigantic achievements of the legal profession in the past in the field of private rights, in the preservation of our freedom and in the maintenance of law and order, you would think that our profession is highly respected, popular, overcrowded and well paid. It is clear that the lawyers throughout America are concerned and are doing something about it; and I sincerely believe that the members of the North Dakota Bar Association recognize the problems that I have discussed.

We made a big step forward this year when we established our first permanent headquarters in Bismarck and when we hired our first full-time Executive Director. In the sectional meeting, in my report there, you will see where John C. Satterfield sent me a message congratulating us and stating that he felt that we would find this forward step paying for itself many times over. On the second page of my report I have summarized briefly the work of the committees, and it is so easy just to put down a line; but again you can't realize the hours of work that has been put in by the committees. I can only ask that you read the next issue of the Bar Journal, and the reports will be there in detail. Read them so you know what is going on.

I was thinking, for instance, in regard to the unauthorized practice of law. It is a tough committee. It is a field of its own, and believe me, any chairman that is going to be chairman of that committee has to do some studying because there is sometimes a fine line and you have to know what you are talking about.

I ran across here not long ago in regard to unauthorized practice of law something that you might find interesting. John Adams wrote in his diary in 1756, and listen to this — 1756:

"Looking about me, in the country, I found the practice of law was grasped into the hands of deputy sheriffs, pettifoggers and even constables, who filed all the writs upon bonds, promissory notes, and accounts, received the fees established for lawyers and stirred up many unnecessary suits. I mentioned these things to some of the gentlemen in Boston, who disapproved and even resented them highly . . . a meeting was called, and great numbers of regulations proposed, not only for confining the practice of law to those who were educated to it, and sworn to fidelity in it, but to introduce more regularity, urbanity, candor and politeness, as well as honor, equity, and humanity, among the regular professions."

I thought you would find that interesting. In other words, way back there two hundred years ago they had the same problem. It is a constant fight.

In your Bar Association you find your committees doing the work you cannot do alone. I would like to say also that the American Bar Association is somewhat in the same boat. They are doing work that the state and local Bar Associations could not attempt to do alone. For instance, in this business of federal liens, you know that they got busy and did something about it; and I feel really that we should support the ABA, and I do wish that those of you who are not members would seriously consider it.

Well, gentlemen, I enjoyed my past year. I am still not done until tomorrow night. I enjoyed it very much, and you would be surprised if you knew the great many hours that have been put in this job as president and not just because of me — but I say, past presidents must have done the same thing. I kept track of my time. I won't tell you how much it was, but you would be surprised.

I feel if there is any success, it has been due to the committee chairmen. I want to thank everyone for helping me at all times. I certainly want to thank the members of the Executive Committee who attended the meetings faithfully and who, let's say, guided me. Thank you very much.

PATENT APPLICATION DISCUSSION

PRESIDENT ILVEDSON: Gentlemen, earlier this spring the representatives of the Inventors' Congress or Inventors' Association of North Dakota called on me and asked that there be time given on this program in regard to applying for patents.

Now, as I recall, they were mainly concerned with the fact that there have been a few sad cases where North Dakota inventors have contacted the wrong kind of patent lawyer; and I believe that the way they talk, without pulling punches, is that there are some lawyers in different parts of the country putting themselves out as patent lawyers who were not competent and not following the code of ethics, and they asked that we permit a representative from the Minnesota Patent Association to appear on this program. The man who I am going to introduce is Mr. William C. Babcock who is the president of the Minnesota Patent Law Association. He is on the legal staff of General Mills as patent attorney. He received his B.A. Degree with honors in Physics, I believe from Cornell University, and he also received his law degree from Cornell University; and I have to give credit to Mr. Babcock for being willing to come up here and spend such a short time, fifteen, twenty minutes, on his subject because that is quite a waste to come up here for such a small part of the program but he was willing to do so at the request of North Dakota inventors. I am sure that you will enjoy his talk, and therefore, I introduce now Mr. Babcock.

MR. WILLIAM C. BABCOCK: Mr. President and members and guests of the North Dakota State Bar Association, it is a real pleasure to be here, and I bring you greetings from the brother members

of the Bar in Minnesota. I know you have many Minnesota alumni here today too.

There is a little problem of selection in this topic of "Pitfalls in Applying for Patents" as to know what to talk about. I suppose no patent attorney, as a matter of fact, no lawyer of any kind can admit he can cover his specialty in a matter of fifteen minutes.

Perhaps I should start by telling you what is a favorite story of patent lawyers as to how one gets to be that. It is a story of a rather young lad whose parents wanted to be sure he was adequately prepared for one of the professions. They weren't quite sure what. They wanted some help in counseling him. They followed a pattern of visiting a vocational guidance counselor and telling him they weren't quite sure whether he would be a lawyer or a scientist. The counselor said, "We can solve this very easy. Have the nurse put a blindfold on him and put an English slide rule at one side and a volume of the North Dakota Code at the other side. Then we will have the nurse remove the blindfold and see what happens." When the nurse took off the blindfold, the young lad picked up the slide rule and then picked up the North Dakota Code and looked at that with an interest, and then he made a grab for the nurse. The counselor at this point said, "This is real easy. This boy should grow up as a patent lawyer." The parents said, "Why is that?" The counselor said, "He has some interest in things scientific, he also has an interest in the law, but he doesn't overlook the fundamentals." Now, with that—you may make your remarks later about this topic of the selection of a patent lawyer to me.

I have chosen first though to talk about three fundamentals or three pitfalls: pitfalls of time, of proof and of business judgment.

Well, first on this matter of time. There are a number of critical dates in the history of an invention. I suppose the one we are most familiar with is the idea of a filing date. When the inventor has completed a patent application in proper form and signed it and sworn to it, it is sent to the United States Patent Office and it receives a filing date, a serial number as a means of identifying it. This date is important because it sets up a *prima facie* case of when he made his invention.

It isn't the most important date by a long shot, however, and I would like to mention a couple of others that should come to your attention when a client first comes in to counsel with you on this matter of: Should I get a patent; should I find a patent lawyer; or what should I do?

Our patent law is very clear that when an inventor starts putting his invention into public use or on sale, in effect when he stops experimenting with it, he has perfected it and he starts using it for profit, at that point time begins to run against him; and in the United States law he has only one year from that date in which to get his patent application on file. In some foreign countries he must have a patent application somewhere before his first commercial use for profit anywhere.

So when a man comes in on this question of inventions, it is very

desirable to get that time element pinned down right away, and make sure time has not yet run out or it is not in the process of running out very soon.

I said a minute ago the filing date was a *prima facie* date. If two inventors are in the Patent Office each trying to get a patent for the same thing, the one with the first filing date has part of his case won. It is like a bird in the hand for presumption of who is first. This can be upset by some good clear proof of some other dates.

The first of those other dates is the date of conception. Conception, you will appreciate, refers to the mental act, the generation of the invention in rather complete form in the mind of this inventor — not just his recognition that there is a problem to be solved, but his complete mental picture of just how he is going to solve the problem, the wheels, the levers, the chemical constituents, whatever it may be that it will take to solve the problem. He has done everything but to build and try it. That conception date is important.

The next date that is important is the date when he reduces his invention to practice, when he puts it in tangible form in the way that the public might conceivably begin to benefit. In effect, he builds what he has thought of.

For some purposes the patent law does recognize the filing of the application as equivalent to the actual making of the invention, but these dates of conception and reduction to practice can upset the presumptions that are established by filing dates. Just as one example — we don't have time for the many complicated situations that you can get into factwise — but if one inventor is the first to conceive mentally of his invention and can prove it and is first to prove the practicality, he wins hands down.

In addition to the matter of conception and practice, diligence in making the steps from one to the other is very often important, and the diligence of the attorney can win the case for the inventor just as the attorney's lack of diligence can lose it.

Well, the reference to these dates will lead you immediately into my second pitfall which is one of proof because how do you prove what a fellow has thought of in his head? This is a tough one, and here you are fighting the normal instincts of any inventor because, as you know, the normal instinct is to keep it a secret. "Let's not tell a soul." He doesn't tell a soul but merely writes some things down which he does not get witnessed. Then he is up against one of the toughest rules of corroborative law. He has to have corroboration and he has to have it from witnesses who can understand the subject matter. So to prove that he had an idea in his head, he had better disclose it to somebody, and the somebody should be someone who is technically capable of understanding it.

On the reduction to practice, it isn't enough that he builds the thing. Again he needs corroboration, corroboration not only of the fact that he built it, but also corroboration of the fact that he tested it and that it worked. If it is an airplane, he better fly it. If it is a

toaster, he better make toast with it; and the witness who is corroborating this reduction to practice can't take the inventor's word for what is in the box. He has to be able to testify of his own technical knowledge that this machine has thus and such parts or the chemical ingredients that went into the process are thus and so. So you have a real problem of proof.

My point is, if you are going to meet this burden of proof in a case where you want to upset the relative date in the Patent Office, there are no substitutes for records. The best advice any lawyer can give to an inventor client is to get him to record very fully and get witnessed what he has done up to that point, if he hasn't already done it; and then make sure he keeps good records from there on, not only to establish these two dates, but to prove that he was working on his invention with diligence. Purchase orders for materials — these are matters of proof you are all familiar with. You go at it just like any other problem you want to prove.

My third pitfall or fundamental I wanted to mention was this matter of business judgment. Very often when the client comes in he says, can we make a search and decide whether he should file a patent application? I turn to one standard we use in General Mills where I work when we are trying to evaluate a particular invention. There is a lot more to a search than one would think. There are well over 1,290,000 patents that have been issued in this country since we started. The problem of finding in that multitude one or two or ten patents on a given subject is a rough one. This depends on how well they have been classified in Washington and how smart the fellow is who goes to look for them. We need to take a look at more than just what the patent shows. They may give us a picture of how much is new, what has been done before, and what this man could have a patent on. In effect, we try to ask ourselves: If I had that patent today, would it do me any good? Would it help me manufacture the things that I want to manufacture? Would it cover enough subject matter so that I could license it to someone else and get some income for it?

This evaluation, as you see, depends not only on whether there is patentable subject matter in it, but does it have technical matter? Is it any good? Is it really a better mousetrap? If it isn't, all the patent gives you is the right to stop someone else from doing that. If he can do it without worrying about that patent, if he can do the same thing otherwise, you will never collect much income.

This comes down also to the question of commercial evaluation. The thing may have the greatest technical value in the world, but can you sell it? Will it bring in a return from a business standpoint? In fact, if I may turn to the other side of the coin, I think in addition to the side of the coin where we look at whether your client can get a patent, it is even more important to look at the question of whether he can do what he wants to do without stepping on the toes of somebody else who already has a patent because if he is looking at the matter of substantial investment in plant, tools, equipment and so on, he needs to know where he stands as to patents of others.

His first concern, presumably, is: Am I free to operate? And then his next concern might be: Do I have a monopoly that is justifiable? Can I keep somebody else out of the field?

Well, so much for a very high-spot treatment of three fundamentals: Time, proof and business judgment. I hope this brings me up to the point where we can say a few words about the selection of a patent specialist to help you. How do you find one? Well, in my company we approach it just like we approach the matter of selection of any other law associate. We want somebody who thinks like a lawyer, who subscribes to the standard education of a lawyer — all of these things your president has spoken about a minute ago. We don't want just a technical specialist. You know how you go about this in selecting other associates. You check law lists. You check the lists of reputable associates. That's the way to go at it.

I might say historically that the reason there have been some problems in this area is that many years ago the Patent Office, when it gave its examination to people who wanted to have the privilege of practicing before it, would give to anyone who passed that examination the title "registered patent attorney"; and this title was given whether the man was a member of the Bar and bound by the Canons of Ethics of the Bar and high professional standards, or even if he were only an engineer — and I am not disparaging engineers by a long shot — but we are talking about two different sets of standards. He was still called a registered patent attorney.

In more recent years that practice has changed. Today if a man passes the examination and he is a member of the Bar, he will be registered as a patent agent. That has been the situation for quite a number of years except that the Patent Office did never retroactively take away from those people who had the title, registered patent attorney, the title it had once given them.

Now, a word about advertising. As you know, there are Canons of Ethics that control those of us who are members of the Bar in this matter of advertising. Reputable patent attorneys don't advertise. Until just about this last year, however, the various agents, people who were not members of the Bar and bound by the Canons of Ethics, were free to advertise. Within the last year the Commissioner of Patents has won a long-running battle which has been backed up by committees on unfair practice of the various Patent Law Associations, Bar Associations; and now he has clearly established the rule that anyone who demands the privilege of practicing before the Patent Office by registration, whether it be as a patent attorney or patent agent, will not be, in effect, free to advertise. In fact, any advertisements, so-called, must be submitted for the Commissioner's approval.

This has led to one more thing, that is, people are now finding the back door. You will now find, I believe, some advertisements of search bureaus or search companies which will, in effect, not even be registered before the Patent Office but which are advertising the fact that they are happy to go into the Patent Office and make a

search of these 2,900,000 patents and give you a bird's-eye view of whether you have an invention.

If you bear in mind the fact that the registered agents are not free to advertise, I leave it to you whether this is a wise choice when you come to try and solve your client's problems.

To supplement what remarks I have made at this time I brought along to leave for your use two pamphlets. One is the pamphlet, "Patents, Trade-marks and Copyrights" which is printed by our Minnesota State Bar Association. It was developed jointly by that association and our Minnesota Patent Law Association. It answers everyday questions about patents, trade-marks and copyrights, and I think you will find it will help you to answer some of the offhand questions that come up from clients who know nothing about it.

Also, the American Patent Law Association has a folder on this matter of selection of a patent lawyer specialist, and in it they also have a little fact sheet which gives the "What — Why — and How of Patents" — again some information for preliminary counselling of clients. I will leave these things here. If you need more of them, I am sure your officers can get them from either of the associations involved.

I also have some rosters of our Minnesota Patent Law Association. I would be derelict in my appearance here as the president of that association if I didn't mention we have some real good patent lawyers in Minneapolis-St. Paul, in this Minnesota area.

My parting words are: When we get to this matter of counselling clients, let's not overlook these fundamentals like time, proof, business judgment, and most of all, the selection of the right man to help you. In other words, don't overlook the fundamentals.

MR. COMART M. PETERSON: From the time he is selling, you mentioned a time limit.

MR. WILLIAM C. BABCOCK: It is a one year time limit from the date of first public use or sale, and the word "public" is mentioned as distinguished from experimental. In other words, the use or sale for profit. You are no longer testing, you are trying to make money on it.

MR. H. A. MACKOFF: Is there anything to this practice of mailing something to yourself, the diagram or something?

MR. WILLIAM C. BABCOCK: The question that is asked is whether there is anything to this practice of mailing something to yourself. This is the favorite suggestion of inventors to write their disclosures out on a sheet of paper and mail it by registered letter to themselves.

I have found two cases where they mention this subject. I think they mention it as dicta rather than the holding. This alone is not enough. They had better mail it to their attorney or someone else who can corroborate the fact it was in existence. Even though you do have a postmark, people do steam envelopes open. It isn't

any better proof than it is in his head. I would much prefer—I think there is no question it is a much stronger case of proof if he has a disclosure written down and witnessed by someone technically competent to understand.

Are there any other questions?

MR. J. F. X. CONMY: I think most of us have had the experience of someone sometime coming into our office interested in procuring a patent. Most all of the time we have followed the procedure you recommend.

Now I have known those others in the profession who mention patent lawyers operating in Minneapolis with specialties in that field. Others will say, "Well, the expense will be too great. Those men will have to travel to Washington, D. C. Why can't we get ourselves admitted to practice in the Patent Office and do it ourselves?" But the result is most of the time most of us refer it down to a patent lawyer in Baltimore or in Washington, D. C.

From the practicalities of it, there is an expense differential. Usually the client is someone broke or nearly broke and has an idea he thinks is good, and about all we can do to help him is to try to pass them on to a good patent lawyer, and the expense item he is always interested in.

MR. WILLIAM C. BABCOCK: Perhaps it is a little harder for me to answer as a corporate attorney than if I were in the private practice.

We do use — and I know most of the Minneapolis attorneys — do use competent Washington associates to do some of that searching; but the question that really comes up is how are you best going to counsel your client, where is the greater problem of communication? Isn't it better if you have good communication from your patent law specialist right to the client? We are not far away, it was easy to come up here last night, it will be easy to go back; and in the long run I personally feel there are advantages to having the close contact between the patent specialist and the inventor and have his Washington associate make a search.

Many of the Minneapolis, Minnesota people also go down periodically themselves. This gets down to a question of what the time pressure is. They may save things up and make the trip themselves and do the job themselves.

Your question is a good one. I would rather see the patent specialist in close contact with the inventor without the long-range mailing to Washington. I have some very good friends in Washington.

MR. J. F. X. CONMY: I would ask you too on the practical method of the handling of the application for the registration of trade name or trade symbol. I have had that come to my attention just a few months ago. I obtained the forms and sought to have the client make its own application for the registration of a trade symbol — I believe it would be called — to use on the letterheads

and so forth; and they have been having a great deal of difficulty, a great deal of delay. We have had inquiry after inquiry from some examiner in the Patent Office asking them to state fully the nature of their business — and actually, it is a fire insurance business — and they want us to call ourselves an underwriter. We are not in the technical use of the term an underwriter, and we are having a great argument.

As a practicality, should such an application be handled through specialists?

MR. WILLIAM C. BABCOCK: Well, many people who specialize in patents do also specialize in trade-marks. I think some of your questions on that may be answered in the little pamphlet.

In the situation you mentioned you do have a tougher battle because a trade-mark basically is to protect the indication of origin of goods, goods that are sold. So if you are running a service organization, there are trade-mark possibilities there, but they are just a little bit newer and a little bit out of the ordinary run.

COMMITTEE REPORTS ON NORTH DAKOTA CENTURY CODE

MR. C. EMERSON MURRY: Ladies and gentlemen, I certainly am very pleased to be here this morning to talk very, very briefly about the new North Dakota Code, the North Dakota Century Code. Actually, Mr. Greenagel will tell you why it is named that. It is named Century Code for a very good reason, odd as it may seem.

Now, as the background of the new Code, all of us know we haven't had a new Code since 1943; but we have kept it reasonably current by every four years putting out cumulative supplements. However, I think most of you also will agree our supplements were getting a bit out of hand, and we were going to end up with a set of supplements larger than the volumes of the Code if we didn't do something.

The last session of the Legislature appropriated \$150,000.00 to the Secretary of State and the Legislative Research Committee with the direction that we republish and revise our Code. The Legislative Research Committee, chairmaned by Senator Holand, whom you all know, assigned this project to the Subcommittee on Judiciary and Code Revision of the Legislative Research Committee which, in turn, was chairmaned by Representative Schmalenberger, and Senator Gefreh, the operating chairman as Vice Chairman. Other members were Senator Brooks, Ringsak and Wartner, Representatives Burk, Stockman and Van Sickle. The Committee has been most fortunate in having an excellent Advisory Committee to work with it, consisting of Judge Burdick representing the State Judicial Council, Professor Charles Crum representing the Law School, and Mr. Joe Donahue representing our own Bar Association.

Now, the directive from the Legislature stated that the Commit-

tee was to negotiate with a private publisher, a private law book house, for the republication; but that the Committee was to have complete supervision over the republication and that the Committee and its staff should make all the revisionary changes that were made and were themselves to accomplish the reorganization and integration of the laws.

The Committee invited submittals from various law book publishing houses in accordance with the criteria and standards submitted by the Committee. Cost purchases of 1,000 sets by the state ranged from \$122,000.00 from the Allen Smith Company to \$180,000.00 from the West Publishing Company.

The Allen Smith Company having the lowest, the Committee checked very carefully into their background, qualifications and previous work. They found that the Allen Smith Company published the Codes of Montana, New Mexico and Utah, and we received very excellent references from the states in regard to their work, and so the contract was awarded to the Allen Smith Company.

Now, the state will purchase 1,000 sets for state purposes. All other sales will be handled directly by the publisher. In other words, you as lawyers will purchase from the Allen Smith Company. The state sets are bound in red (indicating), and the private sale sets are bound in green (indicating). We have six volumes of this Code available at the back of the room for your examination.

The first thirteen volumes containing the basic laws, the rules of civil procedure and the historical documents will be completed by October first. The index volume, however, will not be completed until January 1. In all probability the Code will go on sale about October first by the publisher.

Now, we wish to caution you that this is not an official Code until adopted by the Legislative Assembly. It will be introduced as Senate Bill No. 1 at the coming session. We hope that it will be immediately rushed through and signed by the Governor. Thereafter all bills at the next session will amend the new Code. The Code will almost have to be passed without amendment. However, if any legislator disagrees with any revisionary change that the Committee may have made, he certainly is free to introduce Senate Bill No. 2 to change it back the way it was. So if any of you gentlemen have occasion to draft any bills for the next session of the Legislative Assembly, be certain you get a copy of the new Code and draft it to the new Code or else your bill cannot be accepted.

We will have a new system of pocket part supplements. You will recall in the past we have published cumulative supplements every four years. We have put out Session Laws every year. From now on, prior to July 1 pocket part supplements — correlative — pocket part supplements will be published. They will include all the laws of a general and permanent nature and will update all annotations to the various volumes. The staff of the Research Committee will assign Code numbers to all new laws and integrate them into the Code. The publisher will reprint them. The

cost of this pocket part supplement service to you every two years will depend upon the number of laws passed by the Legislature. In other words, how big is it? But in all probability it will range between ten and fifteen, more likely between twelve and fifteen.

Now, the Session Laws will be published as usual, but they will be less useful to you than before because you will have all the laws of a permanent, general nature in your pocket part supplement. However, if you wish to look up special laws, appropriations, resolutions and those items, you will, of course, still have to turn to the Session Laws so I suspect every attorney in the state will continue to purchase the Session Laws after every session.

Now, we have attempted in the past to have a continuous substantive revision program in the state in that we take various chapters and titles of our Code and substantially modernize them, change them and rewrite them. That type of revision is distinguished from the form revision of the type done on this Code where we simply revise conflicting and ambiguous laws. We hope to continue this substantive revision program, taking the subjects and chapters, similar to the job we did, for instance, on corporations, and so on. We do some of those every year. As these pocket part supplements grow out of size through the amendments by the Legislature, by new law and substantive revision program, only the volume that has the large pocket parts supplement will be republished. It will be republished in one volume if one volume may not grow too large. If it does, you may have Volume 1-A and 1-B. We hope the Code will be timely. We hope never to have another bulk revision program in North Dakota within our lifetime.

I wish to emphasize the Subcommittee on Judiciary and Code Revision has attempted to do strictly a form revision job. They have attempted to stay away from changes in laws just because they don't like them or just because they think it is a poor law, and to change them only where the statutes were clearly conflicting with each other. In order to resolve the conflict in the manner they believe the Legislature intended, they have attempted to clarify ambiguous statutes and eliminate obsolete statutes. If the committee has erred in their approach, I think the error would be on the side of conservatism. They possibly have not done quite as much revision as most of us would have liked, but again, the time was exceedingly short. The committee had only a little over a year to do this job and get it to the publishers and get it back by the time of the next Session. It was physically impossible, with the size staff they had and the amount of time the members of the subcommittee had to do it, to do quite as much of a revision job as was done in '43.

The new Code will be the law. It will not be *prima facie*, it will be the law and you can rely on it. The Code will be passed as a bill by the Legislative Assembly. Prior versions of the law as found in Session Laws, previous Codes and so on, might be useful to you as an aid to interpretation or to show the historical develop-

ment of the statute. It will not be the law. Any law that is included in the Code will be the last word.

Now, again may I invite you to go back and take a look at the Codes at the back of the room. Mr. Rohde will be happy to help you. He is the Assistant Counsel of the committee and, incidentally, he has no free samples to pass out or complimentary copies. He would be happy to get them all back when you have looked them over.

At this point I will call on Mr. Greenagel, Code Reviser of the committee, to discuss more of the details and contents of the Code. Thank you very much.

MR. F. W. GREENAGEL: Thank you, Emerson.

Ladies and gentlemen, I will start out by just talking briefly about what the Code actually contains, what it is and what the committee has done.

The Code name, as Emerson told you, is the North Dakota Century Code. The Subcommittee on Judiciary and Code Revision, after much deliberation, decided that they wanted to get away from a date in the new Code so they chose North Dakota Century Code, commemorating the one hundredth anniversary of Dakota Territory in 1961. They also felt it was wise to leave the date out since many people feel that after ten years or so with the date on the Code, that many people feel it is obsolete. So they felt it was a good idea to leave the date out.

Now, as far as some of the contents of the Code and the Code itself, the Code will be published in fourteen volumes, fourteen sets of the Code. The format will be approximately the same as the North Dakota Revised Code of 1943. No titles have been changed, and with rare exceptions have either sections or chapters been changed so that knowing your way around the '43 Code, you will also know your way around the new North Dakota Century Code. The first twelve volumes of the new Code will comprise what is now comprised in the first five volumes of the North Dakota Revised Code of 1943, the substantive law. Volume 13 of the Code will be historical documents such as our Constitution, United States Constitution, Enabling Act and so on, plus Parallel Tables. Volume 14, of course, will be the index volume which, I understand, many of the lawyers are interested in, in the state.

The subcommittee has a mandate, so to speak, to both the staff and the publisher that all of the entries presently found in the '43 Code index will be retained. Now, by that I don't mean that they will be retained in their present language or in their present form, but the substance of every entry in the 1943 Code, unless it is in error, will also be found in the new index.

I might also add that literally thousands of new entries have been added to the 1943 Code index. Our office, the staff of the Legislative Research Committee, has had one man full-time for well over a year rewriting and making additional entries to the Code, and it

also will be the responsibility of the publisher to add additional entries. The form and style of the new index will be completely different from the 1943 Code index, all of which it is hoped will benefit the users of the new North Dakota Century Code index.

Now, I might point out that no index is perfect. I have never found a perfect index. I doubt that there is one, but I think I can assure you that the Legislative Research Committee will not approve any index unless it is a superior index.

Volumes 5 and 6 of the new Century Code will be the so-called Lawyers' Handbooks comprising the material presently found in Volume 3 of the '43 Code. It will comprise Titles 27 through 33 plus North Dakota Rules of Civil Procedure.

Now, some of the material in place following the sections in the Code are as follows:

The annotations will be in place following each section of the Code. The 1943 annotations have been completely reworked and re-evaluated, and of course, annotations since 1943 have been evaluated and brought up to date and inserted in place. There will be textbook references in place following each section of the Code to Corpus Juris Secundum, A.L.R., Am. Jur., leading Law Review articles and so on.

The West Publishing Company was very generous and gave us permission to use the West key number system. That also will appear following each section of the law in place for your convenience.

Something else has been added. There will be a derivation note following each section of the law where a section on our law was derived from either the California or New York Field Codes. That parallel section in the California or New York Field Codes will be noted under the term "derivation" following the section in place. Source notes as used in the 1943 Code went back to the 1895 Code. In this Code where possible, it will go back to our 1877 Code.

North Dakota Century Code is basically the same as in the 1943 Code with one exception, and that exception is that in the North Dakota Century Code two hyphens are used rather than the one in the present Code. Now, the two hyphens in the North Dakota Century Code will separate the title from the chapter and the chapter from the section. For example, Section 1-0101 is found in the Revised Code of 1943. It will now appear as Section 1-01-01. The reason for this is because of the fact that the Code will be kept up to date through a process of revision on a volume basis and by pocket part supplements. It was felt that it would make for more administrative ease to be able to insert sections between sections and chapters between chapters and so on, and this numbering system will allow us to do that with more administrative ease. That is the only reason for the new numbering system.

As Emerson told you, the new Code, of course, will have pocket part supplements. These pocket part supplements will, of course, be inserted in the back cover of each one of the volumes every two years; and as you know, the previous practice was to publish a

rather bulky, now separate volume of supplements every four years. Now, the pocket parts will be published each two years following the Legislative Session and will be available to the attorneys prior to July 1 when these laws go into effect; and as Emerson also stated, these pocket part supplements will bring up to date both textbook and annotation material. The Session Laws will be published as usual, and of course, will be out just prior to July 1.

The North Dakota Century Code will have reviser's notes as did the North Dakota Revised Code of 1943. These reviser's notes will note every change that was made to any section in the North Dakota Revised Code of 1943, and it will briefly state the change that was made. These reviser's notes will be available from the Secretary of State, and it has not been determined as yet if there will be a cost; but if there is, it will be nominal, probably a dollar or two.

We went through this very, very briefly, and we know that the time schedule of the Bar Association is very, very tight. We want to thank President Ilvedson and his committee very much for allowing us this time to briefly discuss with you the North Dakota Century Code; and if any of you have any further questions — since we don't have time now to take questions — Mr. Murry and myself will be available throughout the remainder of the convention to try to answer any questions you may have. Thank you very much.

COMMITTEE REPORT ON UNIFORM STATE LAWS

JUDGE EUGENE A. BURDICK: During the past year your committee has had under consideration the preparation of the Repealer Bill which will be necessary for the introduction of the Uniform Commercial Code. The Uniform Commercial Code, as you know, was adopted by the National Conference of Commissioners in Uniform State Laws and has been introduced and adopted in five states, namely, Pennsylvania, Kentucky, Rhode Island, Massachusetts and New Hampshire. It has also been introduced in a number of other jurisdictions, notably Illinois and California, and is being introduced or prepared for introduction in virtually all of the other states. It is just a matter of time before it will be universally accepted by the several states.

In keeping with the history of the state in the matter of the adoption of uniform state laws, in which we have long been a leader, it is appropriate that we prepare and submit the Uniform Commercial Code to the Legislature as early as possible. Your committee has worked out the necessary repealer provisions and statutory modifications that will be required, through the cooperation of the Law School and particularly Professor Ross Tisdale and other professors on the staff. Your committee believes that the bill can be readied for introduction at the next session of the Legislature.

In order that the matter may be given full impetus, I now move, Mr. President, that the Association approve and recommend the adoption of the Uniform Commercial Code with directions to the committee to proceed forthwith to the preparation of the necessary

bill for introduction at the next session of the Legislature or at some subsequent session that the committee may deem most appropriate.

DEAN OLAF H. THORMODSGARD: Mr. President, I rise to second the motion. The Uniform Commercial Code has been approved by this body on three or four prior occasions. I think it is entirely fitting and proper that we proceed promptly towards its enactment.

PRESIDENT ILVEDSON: Any discussion? Those in favor of the motion say "aye"; contrary, "no." The motion is unanimously carried.

(Whereupon, at 11:30 A. M., the session continued with the presentation of a movie.)

MORNING SESSION, JUNE 24, 1960

COMMITTEE REPORT ON LEGAL EDUCATION AND ADMISSION TO THE BAR

DEAN OLAF H. THORMODSGARD: Mr. President, members of the North Dakota Bar Association, your Committee on Legal Education and Admission to the Bar for 1959-60 takes leave to report.

In 1952 this Committee recommended that Section 27-1103 of the 1943 Revised Code of North Dakota be amended to conform to the standards of the American Bar Association as to legal education and bar admission. The first recommendation was that applicants to the Bar should complete three years of college and three years of full-time law study or two years of college and four years of full-time law study. The second recommendation was that law office study should not qualify a person to take the bar examination. Over one-half of the states have abolished law office study as the only preparation for Bar admission. These recommendations were approved by the State Bar Association not only in 1952, but also in 1958 and in 1959.

The last report as approved — and I can say the citation — you will see it in 28 North Dakota Law Review from 367 to 369, 34 North Dakota Law Review 322 to 358, 34 North Dakota Law Review 292 to 295.

The last report as approved also recommended that if the standards, rules and regulations of the American Bar Association were not enacted into law that this Committee would recommend that the Supreme Court of North Dakota should exercise its rule-making power as authorized by Section 27-0207 of the 1943 Revised Code of North Dakota.

In Minnesota on May 1, 1958, the Supreme Court promulgated the "Rules of the Supreme Court for the Admission to the Bar." See that in 27 A Minnesota Statutes Annotated, pages 45 to 54.

This Committee has prepared a proposed draft which modifies

Sections 27-1103 and 27-1104 in conformity with the approved standards of the American Bar Association.

It is recommended that this Committee on Legal Education and Admission to the Bar present the attached draft as proposed to the Supreme Court for its adoption and promulgation as Rules of the Supreme Court.

(Draft referred to but not read was as follows:)

**"QUALIFICATIONS OF APPLICANTS FOR ADMISSION
TO THE BAR OF THIS STATE**

"No person shall be admitted to practice as an attorney in this state unless he is a resident of this state, at least twenty-one years of age, of good moral character, and has prepared himself for the practice of law by complying with the following educational qualifications :

"1. Complete prior to beginning a three-year full-time or equivalent part-time course in law school of three years of study leading to an acceptable college degree, or prior to beginning of a four-year full-time or equivalent part-time course in law, of two full years of such study.

"2. Three full calendar years of study of the law in the office of a member of the bar of this state residing therein and in regular practice, or with and under the immediate direction of a judge of the supreme court, district court, or county court of increased jurisdiction of this state, such study to commence only after the applicant has completed three years of college work from a reputable college or university in the United States. No person shall be deemed qualified for admission by reason of compliance with this subsection if his study of the law shall commence after January 1, 1964. Any attorney in this state with whom a student shall commence a course of legal study shall file a certificate to that effect in the office of the clerk of the supreme court prior to January 1, 1964. Such certificate shall state the time when such legal study commenced and the proposed course of study to be pursued. Such period shall be deemed to commence from the time of filing the certificate and shall be computed by the calendar year.

"Under the authority of section 27-0207 (1), sections 27-1103 and 27-1104 are hereby superseded. Nothing in this rule shall be deemed to supersede section 27-1125.

"3. Graduation with a Bachelor of Laws or equivalent degree from an approved law school within a period of five years prior to making the application.

"4. An approved law school, within the meaning of these rules, shall be such law school as is or may become approved by the Section of Legal Education and Admission to the Bar of the American Bar Association."

DEAN OLAF H. THORMODSGARD: This report has been approved by Arley R. Bjella of Williston, Theodore Kellogg of Dickinson, Herbert G. Nilles of Fargo, Mack V. Traynor of Devils

Lake, and myself as Chairman. I have not heard from attorney William R. Pearce of Bismarck.

I have attached here the proposed recommendation which in content merely re-enacts the standards of the American Bar Association. It does provide at least a period of from four to five years. We added "four to" so that persons who are now registered with attorneys and judges may complete their work and be prepared to take the bar examination under the present law.

The letter from Mack Traynor is as follows:

I have your committee report together with other documents, and I heartily approve of your report.

From Mr. Nilles:

I received the memorandum as well as the information on the proposed report of the Committee on Legal Education and Admission to the Bar. I agree with the report completely, and you are authorized to subscribe my name to it.

From Theodore Kellogg:

I am agreeable to the approving of the report subject to a provision that the proposed law will permit a five year lapse before it becomes effective so that the parties who are now registered in the law offices or planning for such registration will not be barred by the term of the law as it is prepared for a period of four years.

That minor adjustment can be made.

Mr. Bjella wrote as follows:

I agree with the same most heartily, and my negligence in answering has only been due to the fact that I have been out of the state. I would like to participate in anything I can do to see if the Supreme Court will not adopt the results which you have proposed.

I may say the Section on Legal Education and Admission to the Bar of the American Bar Association has recommended that this procedure be followed last year. Attorney Holme of Denver urged and recommended this policy. As far as the University of North Dakota Law School is concerned—and I am not speaking for the Law School—in so far that we have since 1950 followed the standards of three years of college and three years of law.

Mr. Chairman, on behalf of the committee I recommend that this report be accepted and filed.

COMMITTEE REPORT ON AUDITING

MR. LINN SHERMAN: Mr. President, ladies and gentlemen: The Auditing Committee was presented with a statement from a Mr. J. S. Graham who has audited the books of the Association for the past year. I have been asked not to read this in detail, but I will make the announcement that it appears that the Association kept well within the budget that had been established for it.

The Auditing Committee has prepared this report:

We, the Auditing Committee, appointed by the Honorable President of this Association, do hereby report as follows:

That we have been furnished with a copy of a report made by one J. S. Graham, public accountant, which copy is hereto attached and by reference made a part of this report.

That we deplore the actions of the Budget Committee of this Association in not making suitable provision and appropriation for an expense account for this Auditing Committee.

That because of such lack of an expense account, and having no funds with which to operate, we have been unable to verify the figures contained in said report or to conduct an audit independently of that made by the said J. S. Graham.

That in accordance with past procedures and practices, we recommend that the audit report of the said J. S. Graham, a public accountant, be accepted.

Respectfully submitted,

John E. Williams, F. Leslie Forsgren, and Linn Sherman, Chairman.

Mr. President, I move that this report be accepted and filed.

PRESIDENT ILVEDSON: And approved.

This business of not furnishing an expense account to this committee, frankly, it hasn't been done before; but if somebody wants to make a motion that this committee be given \$500.00 — how long were you working, ten minutes?

MR. LINN SHERMAN: Yes, but think of the responsibility.

PRESIDENT ILVEDSON: We will hear more on the minimum fee schedule later. Is there a second?

MR. A. W. CUPLER: I second it.

PRESIDENT ILVEDSON: Any discussion? All in favor say "aye"; contrary "no." The motion is carried.

The Resolutions Committee, I presume, will make its report later.

Well, gentlemen, let's get right into the first thing on the program as time is wasting; and according to the programs that you have you see that the man on the program is Kline D. Strong, and that is not Eline. That is a mistake. The name is Kline D. Strong from Salt Lake City. I had the honor of meeting Mr. Kline at the American Bar Association — in February, 1958, I believe it was — midwinter meeting at Chicago. He is a member of the firm of Strong, Watkins & Watkins in Salt Lake City, Utah. He has a B.S. degree from Brigham Young University, an M.B.A. degree from Northwestern University, an LL.B. degree from the University of Colorado, and he holds a C.P.A. certificate. He is a member of the Salt Lake City, Utah, and American Bar Association and is a member of The Order of the Coif, Beta Gamma Sigma, Phi Kappa Phi and Tau Beta Pi scholastic societies. As a law school student and later as an editor of the Rocky Mountain Law Review, Mr. Strong authored a number of subjects. He is a member of the Utah Economics Committee and the Utah Unauthorized Practice

of Law Committee. Yesterday he spoke at the Illinois State Bar Convention in the state of Illinois and came directly from there to here. He has appeared on numerous programs throughout the country and has been in, I would say, at least half of the states before Bar Associations. I know that you are going to enjoy Mr. Strong's talk very much. Kline.

MR. KLINE D. STRONG: Above the library door of the Utah State Penitentiary there appears this thought-provoking inscription: "Don't serve time. Let time serve you."

As I talk with attorneys throughout the United States I am becoming more and more convinced that we attorneys by and large, like many of the inmates of a prison, are simply serving time. Literally, many of us are just simply prisoners of our own practice. Instead of being businesslike in accounting for the only commodity we have to sell — that is time — we almost universally guess at it, but I say to you that it is as important today as it was in the days of Lincoln.

A lawyer's time and advice are his only stock in trade. Many of us wouldn't tolerate a client who kept no better inventory records of his most vital product in the manner we keep our own time records. I am continually amazed and distressed at those lawyers who think they can fairly and accurately estimate the time they have spent on a myriad of matters for diverse clients over an extended period of time. I feel that this kind of guesswork is neither fair to the client nor to the lawyer or his family. You know guesswork is a little bit like, well, it can almost prove fatal.

I was at a race track here recently. I was standing at the fence and some gentlemen were standing next to me, and a young lady was secretly whispering in each gentleman's ear; and finally she came right down next to the man that was next to me, and I overheard her say, "Pardon me, sir, do you have a safety pin?" And just then the announcer shouted, "They are off." She almost fainted.

I don't want you to report that — I mean, you can scratch that, can't you? I stole that from a Circuit Judge, and if it ever got back to him, I am sure he would throw me off his Circuit. Well, enough of these racy jokes.

Now, there are only two kinds of lawyers. There is the non-timekeeper and there is the timekeeper. The first fellow, the non-timekeeper, follows no sound management principle whatsoever, and in my opinion is financially foolish, and this I shall be prepared to show you by the exhibits in just a moment.

The other fellow, the timekeeper, follows a very sound law office management principle, but in my opinion is paying dearly for the wasted time and mistakes made in using conventional time systems. This, too, I shall be prepared to show in just a moment.

Now, what I am going to show you today is summarized in the reverse cover of this brochure, and you can tell there that lawyers in Missouri under a very thorough economic survey in 1959 of the

'58 tax year, those lawyers who kept time records had as much net income as the non-timekeepers grossed. Forty-four per cent more money, gentlemen, \$7,000.00 more money.

Well now, I am on the Economics Committee, as you have been told, for Utah. Two weeks ago we adopted a minimum fee schedule. It increased minimum fees almost a third in our state.

We did one other thing. We concluded a very comprehensive economic survey, and I personally handled most of the statistics on that report. Our committee reported two weeks ago that the lawyer in Utah who kept time records netted as much as the non-timekeeper grossed. The same thing was shown on the Missouri report. In Utah we only grossed five thousand more instead of seven, but we netted as much as the non-timekeeper grossed.

Now, just yesterday I spoke in Illinois, and Daniel J. Kanter gave their report. It was a thorough report. In Illinois though he didn't tabulate statistics quite in the way we did. He stated in his opinion, to make a comparison, that the Illinois lawyer who kept time records netted as much as the non-timekeeper grossed.

Well, those are the last three statistical surveys made in any states. They are the most comprehensive, they are the latest, they are the best. I think you will conclude that we have got pretty good evidence that timekeeping makes money.

Now, if you will consult the reverse page, and then I will show you how you find \$7,000.00. Let me help you find on this sheet over here \$7,000.00. Is this thing on? I will still find seven or maybe, without the aid of this thing, there will be only six. We will find the money.

You can hear me back there, can't you? Your ears will be keen because this is going to be \$7,000.00 anyway.

Now, of course, I am going to have to start with certain premises that I trust you will agree with. First of all, I have to assume that we are all in agreement there are fifty-two weeks in a year. If you are with me there, fine, and if you are not, I am through. Fifty-two weeks in a year, two weeks' vacation away from fifty-two, you get fifty weeks. I will lay you odds you work five and a half days a week. You might not come in Saturday, but you will make up for it in the evening. Bear with me. Take five and a half days a week, 275 days. I am just throwing out a minimum. There are eight national holidays. Let's throw out some more, throw out a total of fifteen days. I am sure if we wanted to speak about holidays again, you will throw out more than that. Bear with me a minute. Throw out fifteen days for holidays, Judge's funeral, Bar work — not behind or at — Bar Association work, just throw out fifteen, you will have 215 maximum working days a year.

Of the 215 maximum working days — you will be lucky, but I think you have got to face it — you have got to bill six of them. You will be there nine or ten hours. You ought to at least bill six. Bear with me. Again, six times 260 would give you a maximum of 1,560 billable hours per year. I have heard all kinds of estimates, 1,200 up to 2,000. I think you will be happy if you can get 1,560

billable hours. If you can find or if you can get some way of finding and billing one more hour, you are going to make this kind of money.

But let's start over here on the gross. If you are billing at an average rate of \$10.00 per hour for 1,560 hours, you will gross \$15,600.00, but according to ABA statistics, you will only net \$10,400.00 and the other third will go to overhead. If you can bill at \$15.00 per hour, you will gross \$23,400.00, but you will only net \$15,600.00, and your net means before taxes, and your unwelcome partner, Uncle Sam, is going to take a good part of this.

Now, it is interesting that Salt Lake just established a minimum fee schedule where the minimum hourly rate is \$18.00 per hour, so you can see that somewhere in between this fifteen and twenty we ought to have the lawyers in Utah. They will gross \$31,200.00, but they will only get \$20,800.00 and of that Uncle Sam takes a good part. Some few of them are undoubtedly going to be charging \$25.00 per hour. They will gross \$39,000.00, they only get \$26,000.00. Uncle Sam will take a good share of that.

Now, the management consultant that spoke at the Illinois Bar yesterday from Philadelphia said the greatest deficiency that we find and the greatest difference between lawyers who make good and those who don't is in billable hours. That's the secret of the whole thing. Just simply increase your billable hours, bill it at your rate, and you will make more money. That's the only secret I know. Oh, you can cut your overhead and you can do a lot of other things, but the one single factor in which lawyers are most deficient is, they are just wasting their time.

Now, let's find \$7,000.00. If you can find in some mechanical way or in some psychic way, any way you can figure it out, if you can find and bill one hour per day at \$10.00 for the year, you have grossed \$2,600.00 more. If you can find two hours at that rate, you will make \$5,200.00. If you can find one hour a day and bill it at \$15.00 for the year, you will make \$3,900.00; and if you can find two more hours in each day, you will make \$7,800.00. If you bill the same time at \$20.00 per hour, one hour per day will gross you \$5,200.00 more. If you find two hours more in each day, you will make \$10,400.00. If you can bill those found hours at \$25.00, in a year you will gross \$6,500.00 more for just one hour a day found and billed, and you will make \$13,000.00 more if you can increase that billable unit two hours per day.

Well, somewhere between the \$2,600.00 and the \$13,000.00 is where the Missouri timekeeper made \$7,000.00 more money than his brother who didn't keep time records. Well, I am going to rest my case on timekeepers on that and what I know to be the experience in Illinois and Utah. I hope you will be sufficiently impressed to resolve to keep time records when I go through the schedule and find it all works out. I wouldn't want to do the schedule and not have you impressed.

I think of the story about little Johnnie. He was in the second grade, and the teacher said, "Johnnie, go to the board and show

the class what two and two is." He dutifully went to the board, and he said two plus two equals four and returned to his seat. She said, "Why, Johnnie, that's good." "Good, hell," he muttered, "that's perfect."

Well, enough for that. Now, perhaps you have tried keeping track of them. You are convinced, I suppose, that it would be a luxury. It would be a \$7,000.00 luxury not to keep time records. There is nothing magical about it. Just buying the system isn't going to do it, you have got to keep track of your time. That won't cost more or lose gray hairs for you. Not keeping track of time at all is an expensive luxury. Perhaps you have tried it and just feel \$7,000.00 more isn't worth it.

We had an experience like that out in Salt Lake. I was then an associate of Senior and Senior. Many of you know Clair and Ray. They are among the most eminent mining lawyers in the United States and the finest gentlemen I have ever been associated with. We had a time system. We had had for nine years. We had just bought a commercial set where we kept a log and copied here and there. We copied four times before we got the record we wanted. One day we had this rather exasperating experience, we spent three-fourths of one day in billing a client. Oh, it is true we had done substantial work for him over an extended period of time, but the critical thing, it took us three-fourths of a day to bill him. We had three secretaries come in, we had the firm accountant come in, and worst of all, we had four different lawyers come in to prove this bill.

Here were some of the typical statements that I overheard, and I will bet you in your North Dakota sovereign that some of these things are said in your office: Whose handwriting is this? I can't read a word of it. Why, she doesn't write any better than I do. I know you have said that.

Oh, that's Miss So and So. She quit over a year ago. You will never decipher what was done so put it down under general. What does this red tick mark mean? All the rest on this page are blue. Does it signify a mistake or does it mean we have rendered a bill covering this item? Who forgot to rule this page? I struck out the word "damn it". I don't think that should go in either. I know very well we have billed this time before. Miss So and So, go get the old statements, and we will try to figure it out by comparing dates. Isn't that idiotic?

Are you sure all of the advances are posted? You know the bookkeeper occasionally gets way behind. What about the telephone bill? It is always a month behind. Oh, we had better forget that twenty-two fifty. It looks as if it has been misposted or billed before, and I would rather lose the money than bill it to the wrong person or bill it twice.

Well now, after this aggravation, we totaled up our cost, and the preparation of that statement cost us in unproductive, wasted time for secretaries, \$15.00; for the bookkeeper, \$10.00; but for lawyers \$140.00; total, \$165.00—to say nothing of the twenty-two fifty we

forgot; and our client had the unmitigated gall to show us three mistakes when we were through.

Well, after that excruciating experience I returned to my air-conditioned cave, pulled out my desk drawer, got out my derringer and thought, "Oh, gosh, I shouldn't do that. That would be the easy way out."

I really tried to solve this thing. I selected a round dozen of the finest law firms in Salt Lake City and the environments, Ogden and Provo; those law offices for which I had the highest regard. They had the keenest business sagacity in my opinion. I investigated them thoroughly. After all, I am a certified public accountant. Though I practice as a lawyer, I still was thought to have some sense. When I was through thoroughly analyzing, I came back and pulled out my desk drawer and got out my derringer. Believe me, our books were no worse than the rest of them.

Then I thought, "What is wrong?" I found one key, I suppose, to the whole thing. You see, half of those lawyers didn't even have books, and the other half who did had one universal deficiency. I have toured across the United States eight times continentally, and I have seen the same thing in every place. Any lawyer from the biggest city to the smallest hamlet who has a conventional time system does one thing that I think is too bad. The deficiency universally is copy, copy, copy.

You know, copy work inherently involves two lost costs, neither of which are salvageable. First, copy work wastes time, and secondly, copy work breeds mistakes. Well, these two deficiencies gave rise to the principles which underlie the system that I finally conceived, and frankly, I didn't know it was original then. It turns out no one ever thought of this thing before, but it solves all those deficiencies.

The first principle I followed I got from industry. Frankly, I had audited their books in Denver. When I was going to Colorado University, I taught taxation in the School of Business when I was taking it in the Law School. I had a little bit of experience auditing industry's books. Industry, you see, long ago adopted the policy they would never copy a thing if they could avoid it because they knew it would waste time and breed mistakes. They used pegboards. Not like this but with the same principle. A board with pegs, that's simple enough.

They can write a check and journalize and make the payroll accounts all in the same item. That is the first principle I stole, plagiarized, lifted and took right from industry and applied it to a professional man. The principle is write it once, write it right, and then never write it again, and I found that we could use it.

Now, the second principle I plagiarized from the banks. They are no dumbbells. They don't copy your check. Oh, it is true they have to balance at the end of the day so they might just as well give you a statistical total of what you have done, in and out. That comes naturally. They don't copy the date, the payee, the amount. They file that check and give it back to you. Any standardized

media like a check or a time slip can be filed many times more rapidly and more accurately than it can be copied. This, you see, is the second underlying principle that we ought to adopt generally in our offices. File it, don't copy it.

Now again, the illustration from Seniors: After we had installed Sans-Copy — which we called Sans-Copy which is a French word, Anglo-sized French word meaning no copy work. I have a partner, this guy Wilkins, who is a Frenchman. It aggravates him because he says it is "Sans-Copy". In any event, it means don't copy. Write it once and write it right, and then don't write it again.

At Seniors after we installed Sans-Copy we literally kept a double set of books in this sense that they kept the old copy job and the accountant did that just as he had always done it, with the secretary's help, and then we put my secretary who didn't know a debit from a credit from a typewriter ribbon on the new system. We ran it that way for eleven months until I left Seniors, and we had this result: What had taken previously a day and a half a week to copy for five lawyers, my untrained secretary in a new system called Sans-Copy could do in two hours per week. What is more, we found in that period of time one filing mistake in Sans-Copy — and you can't help but find it because if Mr. A's time slip is in Mr. B's financial file it is bound to show up — but in that same eleven months we found thirteen copy mistakes in the copied record. Some of them were transpositions, some of them were misposted, some of them didn't make any sense at all; but they were there, and they were mistakes. Yet our accountant knew more about those books than Seniors did. He had been with them seven years. He was a perfectly capable public accountant. Well, how many more mistakes there might have been in those copied entries no one will ever know because, you see, it is so difficult to find them when you are copying but it is very difficult to misfile, and if you misfile, eventually you will find the misfiling and, as I say, in eleven months we found but one. If your girl can't file you had better can her because there are more important things than time slips to make mistakes on in a law office; but usually that girl can read and write and normally she will put A's in A's file, won't she?

Well, maybe you will say, "In this sophisticated community we believe all this, Mr. Strong, but we can't believe we could learn anything from Salt Lake anyway. It is kind of backwoods and provincial."

Let me tell you a little story. A fellow down in San Francisco thought that. Of course, he was a counterfeiter. He was running off \$15.00 bills one night by mistake instead of fifties. The next day he saw to his horror that he had gotten \$15.00 bills. He said to the ringleader, he said, "We better throw them away." He said, "Don't do that. I know a place on East Broadway in Salt Lake we can get rid of them. Put them in the suitcase." So they went to one of the descendants of Brigham Young, handed him a \$15.00 bill and said, "I wonder if you can break this?" And he scrutinized this carefully and said, "How do you want it broken?" "How do we

want it broken?" they kind of whined. "We don't care." So he gave them a three and two sixes.

Now, I am going to show you today an illustration from my own system. I can't help but do that. I want to impress it upon you. I don't give really a tinker what you do, but do something. Find yourself \$7,000.00. Do something, just don't be a non-timekeeper by default. All that I will show you has been graphically summarized in that green brochure. There are many extra copies. If you have local bar associations, do them a favor. In fact, if you adopt minimum fee schedules, you will all start being timekeepers. Don't worry about your competitor. He will start charging more too if he finds out he is going broke. If you start chiseling from a higher figure, get it high enough and you will get more yourself. If you want any extras — and I might add at this point, I don't do this commercially at all — take these cards. If you wish to see samples of all that I have here — and I have a few checks, three or four, and a few bank deposit forms and a few statements and just a very few of my reprints left if you want any — come up after wards. Or if you want, send one of these postcards in to Post-Rite. Without charge — they have no salesmen — they will send you all the samples. Then do something intelligent. At least become a timekeeper.

All I have shown you is printed in this book and most of it is contained in that brochure. The original Sans-Copy article, of which I have shown you reprints, came out in January of 1959 and has since been reprinted five times in twenty-five thousand copies. It was reprinted in the Practical Lawyer of October last year, and in the Ohio and Wisconsin Bar Bulletins. This week they are setting the time for the New York Bar Bulletin. The Minnesota, Kansas and Florida Bar Bulletins, and John Satterfield, whom you will hear at noon, requested a summary of this, and I think all have been mailed summaries — if you took the time to read it. That summary has now been reprinted in three hundred thousand copies and is being used for distribution to law schools and state bar associations who want it.

When we are talking about printing — and notwithstanding the copyright that you see on these forms — if you can get it printed more cheaply in your own bailiwick, you have my full permission to print it any way you want. The important thing is: Let us not let our profession stand still and have all the other professions adopt new time-saving devices and methods.

The best way to illustrate the use of this thing is just to show you what we have in our office. I can tell you now that everything I brought I brought in this thing. It is not a really great big system, and this is the exact tray we use in our office. My partners wouldn't let me take all our wealth, it is true, but this is the one we use. Before the partnership used this, I used these two books. This is my tray, my pegboard. So you see this is a real life example.

Let's suppose that you wanted to install Sans-Copy. Now, if

you are going to install something else, that's fine. You have got to understand certain basic principles. So supposing we install Sans-Copy today in your office. You would have to have a pegboard, it is true, time slips and recap sheets. Let's first put the pegboard up here. That's a green pegboard and these represent the pegs. Here is mine, it has a corked back, very light green aluminum, and it has the pegs down the front. I put it at my telephone because I do a lot of telephone work. When anybody calls me on the telephone, I just take the receiver like this and when he says, "Hello, I am Joe Jones," I just simply write his name down, that's all I need; and at the end of the day — I can remember one day — I can tell how long we talked.

Now, my partner is a different kind of practitioner, and he puts his in his drawer. You can take it home with you, you can do anything you want with it. You can't lose the time slips, you can't lose the board, it is too distinctive.

My third partner just can't bring himself to keep time records, it rattles him and so forth. He doesn't want to spend \$7,000.00 every year on that luxury. So he called in his girl, and he told the girl, "Now, look, I am giving you this. You know who calls me, you know who I dictate letters to, you know who comes through that door, don't you? You just keep track of that, you put it down." And believe me, he has the best time records in the office. He said to her he would fire her. She has it right, and my other partner is kind of slipshod. It is a heck of a lot better than guesswork.

Let's do something you would have to do in your office. You would give these to the girl who is going to shingle all these for for you, one girl, she can shingle them all. I will show you in a minute the color code so different attorneys will know which one is theirs. You will give them to the girl, put on the recap sheets — if I can get this time slip torn off here a little bit — this is the hard way to do it. There is the recap sheet. I have written some down. She can put on a half dozen of these if she wants to. This is called female paper. Oh, yes, in science you keep the gender separate. This is female paper. No carbon paper, it is called NCR paper, no carbon required. They won't reproduce one for the other, put them on like that.

You say all right, put on the time slips. I will do it up here first. This is all schematic since the time slips — actually there are thirty of them — you can get shingled or unshingled. If you have a girl just on the phone who doesn't have a thing to do, get her to shingle them. There are little black marks along the edge, the black marks line up. If she can read or write, she can shingle. It is a whole lot easier to let a machine shingle them. Now, put on the time slips. All she has to do is this (indicating), and you have got yourself a shingled pegboard. It takes ten or fifteen seconds to do the whole job.

Now, you have got a space the top five-sixteenths of this inch. The male is the only part that touches the female. All the rest of the time slip lays over another piece of male paper. Interesting,

the top line has the date, the initials, the client you are working on, the matter, a code like this, the hours in tenths so you can add them up like on an adding machine; and if you are going to use it for money like telephone and petty cash — which I will tell you about in a few minutes — you will have another column for that all on the same time slip.

It is interesting in that five-sixteenths inch, if you were to write — let's say we are at the middle of the week, clear down here — if you were to write in that five-sixteenths inch — I will make jagged marks — that part will reproduce. Male on female reproduction, but you get down here where you are writing your comments — down here where you will want to look to be able to say precisely when you are making a bill, if you want to be very precise, just exactly what you did in spite of the code, in spite of the matter and clients — you can write all the notes you want to aid you when you are billing. It is unnecessary to keep all that junk on this thing. You will only want the day and matter and client. That won't reproduce. All the way through it won't reproduce because it is not on female paper. Male on male paper won't reproduce. Male on female will reproduce, and there you see nature is on our side. You have a complete system. All you have to do, if you have five men in the office, is just assign them colors.

Now, I brought Mr. Green and Mr. Red with me today. Let's suppose there are three or five men in your office. You are Mr. Green, you are going to bill your time at \$30.00 an hour. You have an associate, Mr. Red, he is going to bill his at \$15.00 an hour.

Now, let's suppose that you start the system and so you go in to the girl and you say, "I am Mr. Green, give me a pegboard." She will take the cap off this green stuff. You can use a crayon, colored pencil, anything you want. You are Mr. Green. She will go like this (indicating), and tick your recap sheet. Now, I have a green pegboard, haven't I? I started with standard white stock, but now I have a green pegboard. Every one of the time slips will bear green. I will show you in a minute the significance of that. The same way with red. If you have a Mr. Red, you do the same thing with him so your girl can keep one of these ready to go all the time. When Mr. Green comes out, she strokes the green. When Mr. Red comes out, she strokes the red and hands to him.

Now, you have one of these things loaded. What do you do? Put it next to your telephone if you want, in your drawer, take it home with you. It will serve him right to get billed for the stuff he is bothering you with at home. I have carried it across the continent eight times in that bag there. In any event, put it where it is most accessible to you.

When a man calls in, either leave it laid out like that, and when the next man comes in, turn it over; or do as I do. I just have my pen in my pocket. When I get through writing — maybe all I write is his name, all I need is a little flag — I will remember what I did for that man. Two weeks from now I won't even remember he was in the office. Just tick it down there like that, and close it up. When

you want the next one, go to the last tick, the next one will be ready.

I told you that you would make more money if you could find some more billable time. When you first install a time system, take my advice, record all of your billable time and all your non-billable time; and I swear to you it is magic. In a couple of weeks you will just find that your non-billable time goes down and your billable time goes up because it will astound you, if you are careful about it, just how much time you waste in a day. I don't say you have to be a clock watcher. What you do though, if you are using this system, at the end of the day when you have written down everything you can think of, you just draw a line—see these two lines (indicating). You just draw the line under the end of the day and add up your time.

Now, you know very well you have been in your office nine hours. You add it up, and if it doesn't come to six hours, you just stay there until it does come to six hours. Take my word for it, in a little while, if you keep religious time on this, you find that all these things that you are wasting time on evaporate little by little, and you will find yourself another hour; or as we did in our office, when we had a non-timekeeper come with us and we started him on it, he got Christian in a hurry because we reviewed his record just like you ought to do with your new associate or that flunky partner of yours who swears it won't do any good. Just review it. It is in his handwriting. He can't say, "She copied it wrong" or "She forgot to copy it." He can't do anything, it is in his handwriting.

You add it up and pretty quick you will find that hour. If you find that hour and bill it at \$25.00, you are going to gross \$6,500.00 more next year than you did last. That's almost \$7,000.00, you see. Well, that's the secret in the whole thing, and this is the magic foo-foo paper. It reproduces automatically in your handwriting just exactly what you wrote on the front except the part you might need when you refresh your memory when you make the statement. That's the only use it is anyway. It will record it day by day. File it by your color.

Let me show you ours. I brought my old recap sheets over here. I am Mr. Green in our office. This is the old form, that's why I could bring it with me. That's how much time by day, chronologically already organized for the days I was in the office, the clients I worked for, the matters I worked on and on the new recap sheet, the kind that you get now, the code of the type of work I did and the amount of time I spent, all in my handwriting without any copy work, and there are the lines I have drawn. Every day I picked up a quarter of an hour, a half hour, I would have forgotten. That's all you need.

Now, that's for the last ten months, and if every lawyer in your office had that and three years from now the revenue system descends on one of your clients, you can go back to your handwriting and say, "You bet it was deductible. That's when we made the

water application," or whatever other process you did. You have perfect records without any copy work whatsoever.

Remember in Seniors for five lawyers it took a day and a half a week to copy. It took two hours a week to file like it. Now, you have all this done when you get to the end of the day. At the end of the day you just hand this to the girl. You are Mr. Green, and she zips down another and hands it back to you. You are ready. If it is in the middle of the day, you can tear these off any time you want.

Another thing they said in Illinois that should impress you — maybe you already know it, psychologically I know it is true — but they said the man who delays his billing a full month beyond the psychological best day discounts it twenty per cent. I think the difference between timekeepers and non-timekeepers is the fact that they can't remember and to make sure the client doesn't bother them to prove their statement in some fashion, they just mentally discount it about a third, in addition to which they can't remember another ten per cent or so. That's why they don't make so much money, but note there is a better time to bill than just haphazard billing, all the masters of management tell you. What do you do in this system?

Remember at Seniors the bookkeeper was always two weeks behind, the telephone statement was always a month behind, you had to copy three or four times and analyze it? All that takes time. Copy time is wasted time.

Supposing the man came in and said, "I am ready to be billed. I am ready to pay." He is happy you just won the lawsuit. Now, all you would have to do is say to your girl, "Take the financial tray" — I will show you how you file these in a minute — "I want you to include these last two time slips that I have here that we haven't filed and get my partner A's time slips in the last couple of days, get everything ready. I want the bill now," and you can hand her these two, hand her that one and this one (indicating). Now, she will do with these just like she has been doing daily or weekly any time you tell her to file time slips. She takes them over to the financial file tray, and here is Mr. X, Y, Z in this thing. I only brought some samples along, they don't have names. There is "Z" divider so she will file these two with the others in this tray. She will get your latest one from your partners. Instantaneously she will have all the time on this guy that you want to bill, and in a minute I will show you that she has all of the advances immediately and they are accurate.

Now, she has all these time slips on this fellow, and you have a standard rate in your office. I am sure you know how to compute a standard rate. You can work it backwards if you want. Take gross, a third away from that, divided by twelve hundred, fifteen hundred or whatever you have to have in your office, that will give you your minimum rate.

In any event if you are a \$30.00 an hour man, she will take her time slips — and let's say on this guy we just want to bill the matter A for X, Y, Z. We don't want to bill matters B and C, and

furthermore, you have three or four lawyers working on these various matters, or if there are two of you, it is the same principle. Now, you have a complicated billing problem. You have a client for which you have done three matters and you only want to bill one. There are three or four different rates in the office which are standard for the particular attorneys. This girl is going to get a standard rate bill out for you. Take all the time slips. Sort out matter A you want to bill, and matter B and C over here which you don't want to bill, and she will put matters B and C back in the financial tray. The financial tray is the tray of unbilled time. Now, she will take the time slips that belong to matter A and she will say, "Oh, yes, Mr. Green is at \$30.00 and Mr. Red is at fifteen and Mr. Blue is at ten," and she will sort all those out. Then she will extend the pile of \$10.00, the pile of fifteen and the pile of thirty, and she can hand you in a matter of just a few minutes the basic rate for the office on that matter.

Now, you can look at these — that client hasn't even finished a good Life Magazine by the time you have looked at these, and you will look under these additional comments, these things here (indicating). Those are the factors like the gravity of the matter and how complex it was and how much we made on it, and all that, for the client. These are the other factors that are important in any billing process, and I don't discount them. I say, however, start with time and then increase it or decrease it on the basis of ten and fifteen, and this will be the best memory system you have ever had. It was on that day in your handwriting that you did the research that was the turning point in the case, and so you might say, "Well, now, let's see. On a time basis it is \$500.00, but in view of all these other factors of which I have a very pregnant knowledge, I am going to charge him a thousand dollars." Also, from these additional comments you can write a very intelligent and semi-detailed — as detailed as you want — or a detailed statement. Now, you are ready and you can say, "Bill him a thousand dollars," and this is the basis for it.

Now, whether you bill immediately like that or whether you bill at the end of the month, you will want to have a particular kind of statement, I think; and I suggest to you that industry has long ago developed a better method of preparing statements. Let's take some of their methods and apply them to our profession. Formerly, you see, when you wanted to bill a statement — if you are like our office used to be — the girl has to pull out the second sheet, then she pulls out carbon paper which is legal-sized, then she pulls out the front sheet. Then she smudges her fingers putting it into the machine. Then she goes to the ladies' room to get tidied up. You are out a quarter, half a dollar by that time. If you are lucky she won't smudge her fingers the second time when she is putting it in the envelope.

Compare that with the way industry does it. They have developed a statement where they found for one penny they could interleave the carbon — an interleaved, snap-out carbon. No smudge,

no fuss, no strain. The girl takes this thing out, runs it through the typewriter. It comes out in this form. The newest girl in the office can't make a mistake. Return address — she couldn't do as one of our secretaries did when it didn't have a return address, she addressed the dang thing to us. She was dumb enough to have paid it too, that's the tragedy.

Return address, you can put in the phone number. Here is a place for window envelopes. On very small matters, on all commercial accounts we send checks to, we use the window envelopes. You can use another kind of envelope if you want. There it is in any event. She can't forget to address it to somebody, anybody. She can't help but have the matter right, she just computed a statement on that matter for this client. The date on which it is issued is a common point of reference between you and your client, the period it covers is very important; and it is smart to send interim bills. You can reconcile it from a given date to a given date with a recap at the end when you send the final statement.

Now, everything like that is printed. Why have your girl type that repeatedly? That's standard. It is all systematized. The thing, however, we can't do for you is say how much the advances are. In our offices we put it in the advances column. Day by day we indicate it. I think he is entitled to know the amounts and what money you advanced for him. Then under that, legal services column, and we will refer to any amount of detail we wish because we have it right in front of us, we are not depending upon our memory. I don't suggest you go into how many hours, but I do think a semi-detailed statement is very important to have. When you are through, you have a total of advances, a total of legal services with the detail in here, if any, and a total for the whole statement.

Now, when the girl is through, she just snaps this out, and if this doesn't work, I am through anyway (indicating). She snaps it out and daintily without any smudge or fuss throws the carbon paper away. Now, this one (indicating) goes to the client, and he will appreciate having it punched, don't be afraid of that. They are going to punch the dang thing anyway. Send that to the client and here is your copy. The beauty about this system is — you remember in my illustration: Who didn't tick this right, who did green when it should have been blue or red? Don't worry about that in this kind of a system. You take all of these time slips, everything that supports that statement and the advances — as I will show you in a minute — and staple them manually to the back of this thing and put them in the red binder.

Now, I will pull out an example of one we have actually done. This is one. This is the guy's statement. Now, if it is unbilled, remember it is in here (indicating). If it is billed and unpaid, it is in here (indicating), and that's all you have to do with it. Why copy it again? Just file it. It is much more rapid and a whole lot more accurate. Now, you are through with this guy. You have gone through the entire process. You have received his retainer, you

have done his work, you have billed him, and you haven't had to know a debit from a credit from a chandelier. If you want to know what hasn't been billed, you look in here (indicating). If you want to know what has been billed but unpaid, you look in this one (indicating), and if you want to know what has been paid, you look here (indicating).

So let's suppose this guy — bless his soul — he pays. Well, when he pays, you will find that you can conserve a lot more time if you will pay two cents a week and get yourself a special form. All I know is there are those who deplore extravagance. Two cents a week isn't in that category, especially if it will save you five or ten dollars in mistakes. Over here on this side you see a pretty good reproduction of the bank deposit form that you get free from your bank, but I say to you it is not free at all. It is more like an illustration of the old adage that a guy is bending over a dollar to pick up a dime, because notice what you had to do with the old one — unless you wanted to tell the bank who your clients were, a thing they are not the least bit interested in and don't need to know — you will always have to make a carbon of this thing, slip in a piece of carbon paper and smudge the fingers again. On the original, you will only put the bank code number here and the amount, and then it goes to the bank; but on the carbon copy she is going to write in almost illegible handwriting who paid what bill and then that copy is going to be analyzed with a magnifying glass by an accountant who did what? He is going to copy it, how much was paid for fees and how much was paid for advances. Now, mind you, that girl is the only one who sees the check and the statement. Your accountant doesn't see them. He is working on historical fact. He can't even decipher half of the time. So we figured for two cents we might just as well have a form, put it through the typewriter — she has to do it anyway — she runs the thing through the typewriter. While looking at the check and looking at the statement — she can't help but look at the statement — she will indicate the bank code number, the amount, how much was fees right there on the statement, then how much was advances, and over here she has ample space to indicate the account to be credited; and if it is a retainer, that goes in this other column.

Another thing which I have described in my book but can't take time to go into now — write up here, "John Jones paid with his personal check," the action. If it is his corporate statement, write it up here, write it down there; and when she is through, she snaps this one out — she has to do all this anyway, you see — throws the carbon away. Then tear this once more because, remember, we didn't want to send the bank who our clients were anyhow, and this thing goes with the checks to the bank; and this one (indicating) is just an extra copy of who has been paying what fees and what advances.

If you are worried about internal control or default by secretaries you can send this around every two days or so and have all of your partners initial it. They can remember for a week at least who

paid, and then you will be sure it went to the bank. The managing partner can file this if he wants to. He doesn't have to if he doesn't want to. You might throw that away if you are not going to send it down. All of this information is contained on the already-punched, ready-for-filing office copy of the whole statement. This bank deposit form contains all the detail that would otherwise have to be copied by several people. It is all there so when you want to reconcile your bank balance — you have the detail, it has already been exemplified — all you have to do is add the totals and put it on one line in your cash receipts journal. If you want to know what makes up that line go back to these (indicating) for the same period.

Don't be misled by the simplicity of this thing. You are still going to have to have a double entry set of books. Hereafter instead of copying this stuff two or three times, do it once and file it and have summary entries, a total of four or five of these. If you want to know the detail, you go back to there (indicating) when it was written. All you have for cash receipts will be one page long, one line for each month, so cash receipts in the year will be twelve lines on one page. Cash disbursements — and I will show you how you will disburse cash in just a minute — is very brief. It is twelve lines long per one year, and then you have to have one more page for all these adjustments that go on like depreciation and so forth.

Now, if you are not an accountant, then don't try to go all the way. Go enter your checks the old way if you want, but there is a lot of this that anyone can do without being an accountant. Now, we have gone through the entire process. We have even got his money. That's the first time that it gets into the formal books in the office is when you have money in hand.

Now, you say if you can do all that so simply with the time alone, can we do it with advances? Many lawyers have told me after installing this that the telephone bill itself paid for the system, and those who have not been timekeepers have found out that they couldn't afford to be without it and that it paid for the whole system in a matter of two weeks or a month.

Let's talk about this swindler of the office, this thief. The biggest thief you have in your office, I imagine, is your telephone. I won't turn this one — let me go back to the telephone first. There are only three kinds of advances in your office. There is the telephone, there is petty cash and there is the check advance. Now, that telephone bill — if you are like we are out in Utah, they send it, depending on how your alphabet is arranged, once a month. In the meantime, you have had to bill clients and usually you don't know how much the telephone will be so you guess at it which is bad enough or, which is infinitely worse, you just forget it.

Well, in this system what you do is tie it to the pegboard. You hand this pegboard to the girl in charge of all of all long distance telephone calls. If you are going to keep track of them and place them yourself, just get another pegboard, stroke it down the side with — in our office it is red — a different color because you will

want to know that that slip is a telephone and not a petty cash, and it is not a time slip, and the easiest way to segregate it is by the colors. Segregate partners by color, segregate your telephone by red. Two marks when I am through — I will show you it can be done.

There is your telephone pegboard. Now, let's suppose that you have decided that to control cash out for telephone you are going to have one girl place your calls. That means if you place one from your home at night you might give her that information in the morning. In any event, she will write all the information out, and isn't it interesting? She will have to have the date, she will have to have the initial of the calling attorney; she will have the client or if it is an office expense. You are going to reconcile this thing with the statement at the end of the month anyway. You want all of them, no matter. She will have the client of the office, and if it is for the client, the matter; and if for the office, the matter too. Over here in the money column, over here, she will indicate the amount. How does she know how much the amount is? That is easy. When she places the call, she will say, "Please give me charges after you are through with your call." The operator will say, "That is \$3.48 for three minutes plus tax." She will put that right in here immediately.

During the month all you have to do is tear out that particular phone item, include it with all the rest of the time slips, add it up, total it and send it out, there is the statement; but at the end of the month when that statement from the telephone company comes through — supposing that we ended right there for the month — when the statement comes through, if you add the total of your telephone pegboard and it agrees with the statement of long distance charges by the telephone company, you know you have billed all the telephone advances. If it doesn't agree, you can quickly find out what ones you missed by a comparison; and if it is not too late, bill it. If it is too late, dock somebody who forgot to turn in the charges. It is just that simple.

Now, you do the same thing with petty cash. Buy another pegboard, hand it to the girl in charge of petty cash, give it a black mark if that's the one you want, and instruct her that she is to get the date, the initial of the person taking the money — the client, if it is to a client, or office, if it is an office matter — and the amount just like we did with the telephone. Then when you are ready to reimburse petty cash, having filed these in time, you can bill petty cash anytime you want. When you are ready to reconcile, all you have to do is go from the last reconciliation or reconstruction of petty cash down to the latest, and this has to agree with the amount that's gone from the box. If it doesn't, you make a reconciling figure and start over again. You can tell instantly what it went for, what day it went, who took it and you can be sure in the reconciliation that all of your petty cash has been properly charged.

Now, the last one is this one, and it is very easy to see. This is the special check. You know, with the old stub check you would

have to write the stub and write the check, and then copy all that information the third time to get it to the client so you could bill him, and that accounts for a lot of loss in many offices because they want the billing at the psychological right time and the book-keeper isn't around or he is not up-to-date. All you have to do to overcome that is get an extra copy of your check and file it. This is what you do. This is for filing fee, twelve bucks in Utah, to the order of the County Clerk, paid \$12.00, the date and the amount, sign it and send it. Snap it off like this and throw away two cents worth of that. This goes to the County Clerk. This one is your stub copy, and they are all numerically in sequence. Don't worry about losing this. Your girl who is assigned to write checks — you should localize this responsibility — has to have them in consecutive order. It is either the one that has just been written or the next one there. If you take one from the office, she writes down your name and the number, and she will get it back. Don't worry about it. Industry has used this for years. This one she keeps, the previous balance, the amount of it, any deposits and the balance of the bank, just like you did with your old-fashioned check. That becomes the stub copy and you file it numerically, and this little jewel is what you had to do formerly when you copied it into the ledger that took two weeks to catch up.

This one you placed in the file just like you did with the petty cash and the telephone and all the time. Everything this guy owes you, time and money, will go right in his financial file. Now, you see when you want to bill a guy, you have all of these and you have all the petty cash and all the telephone, that means all of these advances, and you have all of his time in one spot; and when you are ready to bill him, pull it out, examine it and bill it, fasten it to a statement. The statement stays in the red binder until it is paid, and you move it over to the green binder when he is through; and you have never copied anything, and that's the entire system in your law office.

Now remember, if it has never been billed, it is in here (indicating). If it has been billed and unpaid, it is in here (indicating), and if there is only partial payment indicated, leave it in here (indicating) until it is fully paid. That means you can send out statements immediately to the people. You don't have to thumb through hundreds of records where there is no entry at all. At the end of the year you can take all the paid statements — just take them out anyway and file them permanently, and start over for the next year. It is just simple. Physically, visually you can see who owes you money. These things are just right. They stand up just a little. You can see all those. If you want to reconcile your control, accounts receivable, everything that has not been billed, you can see it visually. Just look down to the next one, and you can see the amount of the check and who hasn't paid. You are not charging interest. Why don't you bill him? If it has been billed and unpaid, it is right in here (indicating).

You see, if this thing gets big, and mind you — that's full, I mean

— and mind you, that in our law firm of three partners and associate shortly to be with us, we have never had it more than three-quarters full because we know if it gets too full, we better keep billing; and when it is removed from here, you will be back to about where you are right now. It should stay right there. You can get longer ones or get two if you need them. The important thing is, if it hasn't been billed, it is right here. You can visually see how much it is and who is responsible for it. If it has been billed and unpaid, it is here. So if this gets thick, bill it. If this gets thick and this is thin, and that's thin (indicating), I suggest you get a good lawyer to collect some of your accounts.

Well, I have been given the sign, and besides I am through, so I will give you one last illustration of how this whole thing works.

President Ilvedson, on this particular day, my client being your fine Bar Association, I charge you one miserable trip from Illinois and one whole day, that's \$200.00, but in fairness I have to credit you for all your hospitality and the splendid audience, \$300.00. I am in your debt, thank you.

ELECTION OF OFFICERS

PRESIDENT ILVEDSON: At this time then nominations are open for president. The main nominating speech can be made from the platform.

MR. HENRY G. RUEMMELE: Ladies and gentlemen, two years ago on the floor at Jamestown I nominated a candidate, and he was defeated. I thought perhaps I would at this time pick a candidate that I thought had some chance of winning.

The man that I am going to nominate has practiced law in the State of North Dakota for twenty-eight years, in the State of Minnesota for two years. He has served his bar association well. He has been the head of the sectional meetings on various occasions for these conventions or meetings. He has been chairman of the Business, Corporation and Partnership Committee of this association, and for the past three years has served on its executive committee. Prior to that time he has served as president of the Chamber of Commerce, the Exalted Ruler of the Elks and the director and president of the Community Chest. I think all of this indicates that he is well-qualified to serve as president of this association.

I would like to place in nomination as your president Vice-President Thomas L. Degnan of Grand Forks.

PRESIDENT ILVEDSON: Is there a second? Mr. Vogel.

MR. MART R. VOGEL: Mr. President, may I endorse completely and whole-heartedly everything that Mr. Ruemmele has said about Mr. Degnan. I, too, was at Jamestown and gave a seconding talk for Tom at that time, and of course, we know that the present president defeated him.

I, think it particularly fitting that we will be electing as

president a lawyer from a city and a county which have been such gracious hosts. I am still somewhat dazed from last night, but I think that I will manage to put out the day. I certainly would like to take this opportunity of thanking all of the lawyers here in Grand Forks and Grand Forks County, and I second the nomination of Mr. Degnan for the presidency.

PRESIDENT ILVEDSON: The motion has been made and it has been seconded. This is the one that Degnan is scared of.

Are there any other nominations?

MR. FLOYD B. SPERRY: I would like to add a few words to the fine things that have been said about Tommy L. Degnan, and I do that not because I don't feel his election is a cinch, but I thought it might give me a chance to put in a plug for the bar association and some of the work that I helped to do while Tommy served on the executive committee. He has served on that committee for three years, and upon being elevated to the presidency, he will have to serve for two years more.

Now, during that tenure we have some great developments in the North Dakota Bar Association; and they include the adoption of these inter-professional codes, a terrific legislative program with which Tommy unselfishly helped and worked, improvements in our judicial system by increasing our judicial salaries, the elimination of your justice court system, improvements in our traffic courts and the adoption of a number of uniform laws among others.

I think we are fortunate in getting a president who is going to have the background because we are going to have another Legislature here in a short time, and that experience that Tommy has had with the last legislative program is going to prove to be invaluable.

So it is a great pleasure to me to second that nomination.

PRESIDENT ILVEDSON: Thank you, Mr. Sperry.

Are there any other nominations? Is there any motion that the nominations be so closed?

MR. JOHN F. LORD: I so move.

PRESIDENT ILVEDSON: It has been moved by John Lord.

Who is the second? Please stand up and give your name as second. Who seconds it?

MR. ROBERT W. PALDA: I second it. Bob Palda, Minot.

PRESIDENT ILVEDSON: Seconded by Bob Palda. Any discussion?

All in favor say "aye".

Could we have a motion that a ballot be cast for this man, and we won't have to do this?

MR. A. W. CUPLER: I move you, sir, the nominations be closed, and the secretary be instructed to cast a unanimous ballot for Thomas L. Degnan.

MR. RICHARD H. McGEE: I second it.

PRESIDENT ILVEDSON: All in favor say "aye".

Tom Degnan, would you stand, please?

MR. THOMAS L. DEGNAN: Thank you very much, gentlemen.

PRESIDENT ILVEDSON: Now, gentlemen, at this time I declare nominations open for the office of vice-president, and the main talk should be three minutes and made up here.

MR. GEORGE A. SOULE: Mr. President and members of the State Bar Association of North Dakota, it is my privilege this morning to present to you the name of Lewis H. Oehlert of Fargo as a candidate for vice-president during the ensuing year.

I had prepared about a half hour talk, and this announcement of our president has sort of caught me flat-footed, but I will try to get through in about three minutes, Mr. President.

Lewis came to Fargo in 1929 as a member of the firm of Nilles, Oehlert & Nilles. He is still a member of that firm. He has been very active during these years. He has demonstrated that he is a real lawyer, not only in office work, but also in trial work, and I know I have considered him one of the leading trial lawyers in the state.

In addition to that he has found time to do a lot of work in our Cass County Bar Association, he has served on many committees, he has also served as president. He has been active in the state association. He has given sectional meetings. He has been a member of the Medical-Legal Institute Committee. He has done many other things too numerous to mention.

In addition to all of this he has found time to be very active in community affairs. He has been active in the church. He has been a member of our board of directors of the Chamber of Commerce. He is presently the president of our Fargo Kiwanis Club.

One of his big things was a number of years ago — some of us were sort of — I can't quite say it, anyways we didn't like the way our city was being run. We felt we should have a more active government. We organized the Greater Fargo Association, and as a result we elected a mayor and two members of the Commission, and they are the group that laid much of the foundation for the great development in Fargo that resulted last year in Fargo being awarded this All America City award.

In addition to that this last year he and a group have organized and conducted successfully a campaign to raise a million dollars for a YMCA-YWCA Building. They did such a good job that they made a million and a quarter.

What I have been trying to tell you here in my sort of feeble way is that he is not only a man that sees what must be done, but then he doesn't dillydally or procrastinate like so many of us do, but he gets out and does it. I do know that if he is elected vice-president of this association, he is going to do a real good job, and I thoroughly recommend him for the position.

I thank you, Mr. President.

PRESIDENT ILVEDSON: Gentlemen, you have heard the nomination for Mr. Oehlert.

Is there a second?

MR. JOHN HJELLUM: Mr. Ilvedson, I would like to second that nomination for three reasons.

First of all, he is a capable lawyer and we all know it. Secondly, as a member of the Continuing Legal Education Committee I recall that we had to call on Lou quite a number of times to help us in various things, and namely, because he was an expert in the things that we asked him to help us with ;and thirdly and the most important, he gets the job done and that's what we need in this association.

PRESIDENT ILVEDSON: Thank you, Mr. Hjellum.

MR. QUENTIN R. SCHULTE: Mr. Chairman, I take great pleasure in seconding the nomination of Louie. I think we all know him as a tough court opponent, but he has another side. When you take him out socially, you have a hard time keeping up. Then you find out things about a man, more so than in court. When you find out Louie wants the job and knows he can do a good job, I know he will accept the job in all humility. Now, he has done an excellent job in court administration as well as in the courtroom, and I am sure he will make one of the top vice-presidents. He will appreciate your vote.

PRESIDENT ILVEDSON: Thank you, Mr. Schulte.
Any other nominations? Mr. Lanier.

MR. P. W. LANIER, JR.: Mr. President, fellow lawyers, friends and Senator Lee Brooks, I have taken this platform for the purpose of having the privilege of placing in nomination the name of a fine lawyer from the State of North Dakota for the office of vice-president of our association.

I am sorry really that Cass County seems to be dominating this platform, but I suppose that's no more than proper, as we lawyers in Cass County I think, after all, are the leaders of the North Dakota Bar. And I think it probably fitting and proper that we should be.

I have the pleasure of placing into nomination the name of a man who has practiced law now for thirty years, who began his law career in the State of Minnesota, and since his coming to North Dakota has practiced in Morton County and the City of Mandan ever since. He is a man who unquestionably, along with others who have been and will be, I presume, nominated for this position, one of our top, most capable lawyers in the State of North Dakota.

I personally have never had the pleasure — or the sorrow, either way that one might look at it — of trying a case against this gentleman, but I have had the pleasure quite often of sitting in and watching the conclusion of a case where I anticipated that I might be next. I also have had the pleasure on more than one occasion

of reviewing his trial record with a dissatisfied client to see whether or not there might be grounds for appeal, and I am happy to say that never yet have I been able to make such a recommendation.

I have worked with this gentleman in many cities — of our major cities in the United States due to his very active work in the organization of the National Association of Claimants and Compensation Attorneys. I have had the pleasure in that organization as one of the vice-presidents of watching this gentleman operate in that association as one of its vice-presidents. I have had the pleasure at Miami, Florida, of watching him work as a member of the board, the governing board of that organization.

I have had the pleasure, as many of you have, of attending the active and intensive work in the North Dakota Bar Association and sectional meetings with the gentleman I am to nominate. He has been at all times an active member of the North Dakota Bar, and I have seen the effectiveness with which he works for lawyers, for lawyers' clients, for the integrity of the profession at all times, where the lawyers argue for their benefit and for the benefit of those things in which you and I as lawyers believe, and for these reasons, and particularly — I might add one more thing. I have watched this gentleman who is one of the top office lawyers and trial lawyers in the State of North Dakota, I have watched the sympathy, the care, the treatment and the help that he has given young, new, inexperienced or unaided lawyers as they start the legal profession, both for their benefit and for the benefit of their clients and the integrity and the reputation of the legal profession in general; and I believe, gentlemen, that this is one of the finest characteristics of a true lawyer, is the help they give the new and the unassisted members of the bar.

For all of these reasons I take great pleasure in placing in nomination for the office of vice-president for the next year the name of John Lord of Mandan, North Dakota. Thank you.

PRESIDENT ILVEDSON: Is there a second? Mr. Van Sickle.

MR. BRUCE M. VAN SICKLE: Mr. President, I checked and I think I can state — ladies and gentlemen, normally I would tend to disagree with Mr. Lanier and I must admit that I will not elect to comment on his opening remark concerning the prestige of the Cass County Bar; but I must agree with him on one point: I feel that John Lord would make a fine vice-president pointing to the position of the presidency.

In my discussion with him this morning he pointed out the importance of developing the area of district bar associations and the association with the medical profession and other groups with whom we work. That in itself suggests that here is a man with a program who wants a chance to perform it. I am privileged to second the nomination.

PRESIDENT ILVEDSON: Thank you, Mr. Van Sickle.

Does anyone want to move the nominations be closed?

MR. JOHN E. WILLIAMS: I so move.

PRESIDENT ILVEDSON: Is there a second that the nominations be closed?

MR. FRANK F. JESTRAB: I second the nomination.

PRESIDENT ILVEDSON: Any discussion on this motion?

All in favor say "aye". Thank you.

At this time, gentlemen, the nominations are open for the position of secretary-treasurer which George Dynes of Dickinson has held.

Mr. Sperry.

MR. FLOYD B. SPERRY: The reason why I tried to get up here as fast as I could was to head off some more of these people from Fargo. So far they have pretty much gone along with what Mr. Lanier said about the Fargo attorneys, but I would like to get some of the lawyers from the western part of the state, and particularly Bismarck, on the map also.

For the office of secretary and treasurer we have elected a young man for a number of years. I think it has been quite a long time since anyone as old as I am, for example, has held that most important position; and I am talking about George T. Dynes from here on.

He is the state's attorney out in Stark County. Prior to that he was a member of the firm or an associate of the firm of Mackoff, Kellogg, Muggli and Kirby. I am sure that the training he got there did him a lot of good for work of this kind because he is very thorough, he keeps excellent records, he always has them in shape and I learned this morning that our money is in that same condition also.

George is a very active and able young chap, and I think it is quite important that we have someone in that office with some experience along those lines for at least one more year. We have a very fine executive director. He is young, he is vigorous, and he is doing a very fine job; but it takes a long time to get that work organized and make it function to its utmost sufficiency. I think that with the work that George has been doing and the work that he will be doing from now on, it will be a great help to Alfred Schultz, the executive director, to have the satisfaction and the privilege of working with George.

So I am very happy to place in nomination for this office the name of George T. Dynes of Dickinson.

PRESIDENT ILVEDSON: Is there a seconding speech to Mr. Sperry's?

MR. LOWELL W. LUNDBERG: Mr. President, it is a privilege for me to second the nomination of Mr. Dynes to this position.

PRESIDENT ILVEDSON: Are there any other seconding speeches? Are there any motions or any further nominations?

Is there anyone who wants to move the nominations be closed then?

MR. FRANK F. JESTRAB: I so move.

PRESIDENT ILVEDSON: Is there a second?

MR. JOHN E. WILLIAMS: I second it.

PRESIDENT ILVEDSON: Any discussion? Question?

All in favor say "aye", contrary. It is so carried.

Now, gentlemen, the last office for election is the office of state delegate to the House of Delegates of the American Bar Association.

MR. FRANK F. JESTRAB: Mr. President.

PRESIDENT ILVEDSON: Mr. Jestrab.

MR. FRANK F. JESTRAB: For the office of State Bar Association of North Dakota Delegate to the House of Delegates of the American Bar Association I nominate Floyd Sperry.

Floyd Sperry has served in the position of state delegate one term, that is two years. In order for us to get the benefit of our state delegate's services there is no question in my mind but what there should be some continuity in that office.

Great credit has been brought to this state and to this bar association through the services of Herb Nilles. I don't know whether you appreciate the regard with which he is held in American Bar Association circles. He is one of the inner circle. He has made an enormous contribution to the American Bar Association, to the American Bar, and to the State Bar Association of North Dakota.

One of the things that has helped him, outside of his enormous ability and his devotion and so on, is the continuity in office. It takes at least two to four years to know what it is all about, and for that reason I believe that it would be sheer folly not to institute here some policy of continuation. It is for that reason alone that we would be well justified in returning Floyd Sperry to office.

But the American Bar is on the march if you have noticed — I think there are 60.5 per cent of the members of this bar association who are members of the American Bar Association. That's a source of enormous personal gratification to me because I have personally signed in the past six years 150 applications by North Dakota lawyers for membership in the American Bar Association, and we need somebody down there that can work and complement the work of Herb Nilles, that can work with him and who can carry on as a sound and as a constructive liaison agent between this Bar Association and the American Bar Association.

I don't have to tell you anything about his personal antecedents in this bar association work that he has done. You all know that, and so in closing it gives me great pleasure to say to you that I nominate with great pride and pleasure Floyd Sperry for the office of State Bar Association of North Dakota Delegate to the House of Delegates of the American Bar Association. Thank you very much.

PRESIDENT ILVEDSON: Is there a second?

JUDGE EUGENE A. BURDICK: Mr. President, I take great pleasure in seconding the nomination of Foyd Sperry for this position of delegate.

I have known Floyd personally for over twenty years. I have had a warm spot in my heart for him ever since I first met him. I have served with him on the executive committee of this Association, and during the term he served as president North Dakota he was awarded the award of merit of the American Bar Association.

We all, I think, are familiar with the tremendous energy of this man, his devotion to the cause of the State Bar Association, his willingness to work, his desire to work; and I am sure that he is anxious to continue the service that he has instituted, and will forever be a credit to our Association.

I take great pleasure in seconding his nomination.

PRESIDENT ILVEDSON: Thank you, Judge Burdick.

MR. CORBIN A. WALDRON: I move that the nominations be closed.

PRESIDENT ILVEDSON: There is a motion that the nominations be closed. Is there a second?

MR. JOHN F. LORD: I second it.

PRESIDENT ILVEDSON: Seconded by John Lord.

Any discussion? All in favor say "aye".

For the record, I think for both George Dynes and also Mr. Sperry, I don't think we have the motion that the secretary be ordered to cast a ballot.

MR. BRUCE M. VAN SICKLE: Mr. President, in both cases I move the secretary be directed to cast a unanimous ballot for the named persons.

MR. HERBERT L. MESCHKE: I second it.

PRESIDENT ILVEDSON: Any discussion? All in favor say "aye". It is carried.

MR. L. R. NOSTDAL: I will take a moment. Many organizations have a rule in the bylaws that when a man has been in office for a certain number of years, they will waive his dues, annual dues. We have no such rule in the bar association. I believe, however, that it is a good thing, and I wish to move that after a lawyer has been practicing law and paid his annual dues for the period of thirty-five years, that thereafter he be exempted from paying any further annual dues and be still in good standing of the association.

PRESIDENT ILVEDSON: Mr. Nostdal's proposition, as you heard, would be that a man practicing thirty-five years should be exempted from paying dues.

I might say for the benefit of the members that I believe that this was presented to the executive committee, and after some discussion it was turned down. I believe at that discussion it was fifty years — I believe Mr. Nostdal had previously written me. I believe it was fifty.

Whatever it was, I have to tell you that I believe the executive committee turned it down. The motion has been made.

MR. L. R. NOSTDAL: It seems to me, if they turned it down, they should turn it up again.

PRESIDENT ILVEDSON: That is probably so. I beleve it is the authority of the executive committee to set the dues, but this is an open house.

If there is any discussion or any second, you are welcome to do so.

MR. JOHN HJELLUM: Mr. Chairman, are there any statutory complications on that?

PRESIDENT ILVEDSON: At the present time I think the Constitution leaves these dues to be set by the executive committee.

MR. JOHN HJELLUM: I was thinking of the state license fee.

PRESIDENT ILVEDSON: Well, of course, the state license is \$10.00.

I'll tell you what, this afternooon we are having a presentation of the budget, and perhaps we can lay this over until then.

MR. JOHN HJELLUM: I will so move.

PRESIDENT ILVEDSON: There is a motion to lay this over by John Hjellum. Is there a second?

JUDGE EUGENE A. BURDICK: There was no second to Nostdal's motion.

MR. JOHN E. WILLIAMS: I second the motion to lay it over.

PRESIDENT ILVEDSON: There was no second to the original motion, I realize.

Is there a second to Mr. Nostdal's motion because of there is no second, it is true it will die for a lack of a second.

MR. VERNON M. JOHNSON: I will second it.

PRESIDENT ILVEDSON: Just to keep it open.

No, there is a substitute motion to lay this over until this afternoon, it has been moved and seconded.

Any discussion? All in favor say "aye"; contrary.

Will you pass the ballots in towards the center, and our balloting committee will pick them up.

MR. JOHN F. LORD: Mr. President, you made a statement the state license is \$10.00.

PRESIDENT ILVEDSON: Fifteen.

MR. JOHN F. LORD: I wondered if you had a special arrangement. You will have to come up five more dollars.

PRESIDENT ILVEDSON: I know, sir.

MR. JOHN F. LORD: I have been paying twenty.

PRESIDENT ILVEDSON: Gentlemen, this is a good time to bring a matter to your attention. The North Dakota Broadcasters Association which is composed of all the TV and radio stations asked that we appoint a committee and that the Judicial Council appoint a committee to listen to their story.

As I understand it, they desire to change Canon 35 in regard to prohibiting broadcasting and televising of trials, and I did appoint a committee and the Judicial Council appointed a committee of three each. My committee was Roy Ployhar, Bob Palda of Minot and Francis Reichart of Dickinson; and the Supreme Court, that is the Judicial Council, appointed Judge Strutz, Judge Schneller and Judge Redetzke.

Strutz is the spokesman for this committee of six that appeared at this hearing, as we will call it, or presentation that was made Wednesday before the bar meeting began; and I would like to have at this time Judge Alvin C. Strutz, if he would come up here, present any recommendations or whatever he has on behalf of this special committee that appeared in your behalf. Judge Strutz.

REPORT OF COMMITTEE ON CANON 35

JUDGE ALVIN C. STRUTZ: I just want to say that you fellows better be giving this some thought because these fellows are in earnest. We spent better than two hours with them the other day, and they thought we were awfully narrow — and maybe some of us were — but you are going to hear of this again.

We drew up a resolution, and I would like to present that at this time:

"Your Committee consisting of three members of the North Dakota State Bar Association and three members of the Judicial Council of the State of North Dakota met with a committee of the North Dakota Broadcasters Association relative to broadcasting and televising of court trials in the State of North Dakota.

"The broadcasters committee protested Canon 35 of the Canons of Professional Ethics of the Bar Association in so far as it prohibits the broadcasting and televising of trials in this state.

"Arguments were presented by the broadcasters to amend this Canon so as to permit, under court supervision and court restrictions, the televising and broadcasting of trials. In support of their arguments movies were shown of the case of the State of Colorado versus John Graham in which the defendant was tried for murder resulting from the placing of a bomb in a United Airlines plane."

And in that case the Court of Colorado permitted the proceedings to be broadcast and televised.

"Arguments were made that Canon 35 violates the first, sixth and fourteenth amendments of the United States Constitution in that the provisions of this Canon infringe upon the right of free speech, the freedom of the press and in that it denies due process of law."

They didn't explain how, but that was their argument.

"The broadcasters committee suggested that a committee of the Judicial Council and the State Bar Association be set up to meet with a committee of the broadcasters and television association in an attempt to study and work out satisfactory rules and procedures to the end that radio and television broadcasting can be had of court trials without disturbing the proper decorum of the court and without denying to any defendant accused of crime any of his rights

and without denying to civil litigants their rights under the law and without disrupting the dignity or ordinary legal procedure and fair conduct of either criminal or civil trials.

"Your Committee submits the request of the North Dakota broadcasters for the consideration of this Association and recommends that a joint committee of the Judicial Council and the State Bar Association be appointed to meet further with the committee of the North Dakota Broadcasters Association to give the issues and problems raised such further consideration as the committee might deem necessary and advisable and that such committee report their findings to this Association."

Signed by Robert Palda, Roy Ployhar, Francis Reichert for the North Dakota State Bar Association; Roy Redetzke, Clifford Schneller and Alvin C. Strutz for the Judicial Council.

It was felt, gentlemen, that we should not just say "no" to these fellows; that where they wanted a chance to show what they could do, the least that we could do would be to at least give them that opportunity.

Mr. President, I move the adoption of this resolution, and I might state that the broadcasters didn't try to butter us up. The smears of butter that you see here are part of Judge Redetzke's signature.

PRESIDENT ILVEDSON: There has been a motion made in regard to moving to adopt this report, and I would say that if it is adopted, unquestionably Mr. Degnan, as your new president, will appoint that committee and abide by your wishes as far as the State Bar Association is concerned; and of course, then it is up to the Judicial Council to furnish the other half.

Now, is there a second to this motion?

JUDGE ALBERT LUNDBERG: I second it.

PRESIDENT ILVEDSON: Any discussion?

JUDGE EUGENE A. BURDICK: Mr. President, do I understand that what they are going to recommend now is that some Judge has to experimentally permit them to come in and do this?

JUDGE ALVIN C. STRUTZ: Not at all. All they wanted to do was they wanted to set up a mock trial to show how they would handle it and prove it could be done.

JUDGE EUGENE A. BURDICK: All right.

JUDGE ALVIN C. STRUTZ: Before the members of the committee. No, that would not mean that one of you fellows would have to be a guinea pig.

PRESIDENT ILVEDSON: Mr. Nilles.

MR. J. GERALD NILLES: Was the matter of prejudice discussed at your committee meetings? Was there much more?

JUDGE ALVIN C. STRUTZ: Gerry, they didn't get very far with the committees that met with them. They wanted another opportunity to actually show what they could do. They discussed it

with us, but they weren't able to show us because all they could do was talk.

MR. J. GERALD NILLES: Did they say anything about the right of counsel and the right of litigants involved, their right to keep from becoming the actors?

JUDGE ALVIN C. STRUTZ: They didn't have the answers. They hoped to have the answers.

MR. J. GERALD NILLES: Are they presenting any kind of a proposition if objection is made by counsel or by one of the litigants that they would be prohibited?

JUDGE ALVIN C. STRUTZ: They want to leave it entirely to the trial Judge, and if the trial Judge — their argument was that if the counsel for the defendant or the defendant himself would object, that the trial Judge then would not allow it.

MR. J. GERALD NILLES: What about the plaintiff?

JUDGE ALVIN C. STRUTZ: That's in criminal cases. The plaintiff would have the same right in civil matters.

I have on my person here or in my billfold here something that I forgot to show those fellows, but it is a little something that some of you can think about. I don't want you all voting for it just on account of this.

This was taken from the Sunday *Chicago Journal* this last Sunday. In Texas there were some courts that permitted this if the attorneys for the litigants agreed, and there was one case where the counsel for the defendant in a criminal action afterwards admitted pocketing a fee of \$1,000.00 from the television station for the sale of the TV rights to that particular trial.

PRESIDENT ILVEDSON: I think, Mr. Nilles, that a summary of what Judge Sturtz stated was that he felt as a matter of public relations we should at least give them a hearing on the proposition. I think that is about the sum and substance of it.

JUDGE ALVIN C. STRUTZ: Yes.

MR. P. W. LANIER, JR.: I feel so strongly about this that I do want to be heard. I feel that other than the committee it is our responsibility as the Bar assembled here.

I just can't possibly understand how we — it is not a matter of press relations or public relations or anything. I just can't understand how any lawyer, recognizing his own responsibility, both to the profession and to his clients, can even give the thing a consideration. We make a complete mockery, we make a grandstand — we make a play and a show out of a trial; and I just think that we assembled here, as the Bar Association, ought to definitely say "no". I just can't see how we can go any further with it.

MR. DANIEL S. LETNES: I would like to second what Mr.

Lanier said. I think we should say "no" and say it loud and hard. To start this, I would move that we take —

PRESIDENT ILVEDSON: Is this a substitute motion?

MR. DANIEL S. LETNES: Substitute motion, that this committee's report be changed if it can to turn the whole proposition down and refuse that privilege of — refuse to give it further consideration and refuse to appoint any committees to make further study.

MR. E. HUGH McCUTCHEON: Mr. President, I will second the substitute motion. In my opinion this whole thing is a bunch of nonsense. If we are going to make a public mockery out of our courts and out of our trials, we should stand up and so state. On the other hand, if we are going to maintain the dignity of the profession, we can do it without a lot of nonsense.

JUDGE ALVIN C. STRUTZ: We felt — I just want to state the position of the committee. Here was a group of citizens of this state; and while we might not agree with them, certainly we had no right to say, "We won't listen to what you have to say," or "We won't watch what you can show, the things you want to show to us."

It was for that reason that we felt in all fairness, even though we might not agree with what they were trying to prove to us, they certainly had the right to come before us and show us what they had to show and make the argument they had to make.

JUDGE CLIFFORD SCHNELLER: I was a member of this committee, and I was more skeptical than you would have been if you were in the committee room. I thought too it was a big spectacle. I thought too it would disturb the decorum of the court and orderly procedure, make a drama, perhaps a mockery out of a trial.

However, they presented to us the rulings of the Supreme Court of Colorado. The Supreme Court had appointed the Judge, District Judge, to meet with the broadcasters and to listen to their arguments and to make recommendations to the Supreme Court, and they had decisions in the Supreme Court of Colorado there who permitted the television of this trial. They had with them the citation of authorities of the Supreme Court of Colorado, also the Commissioner's report, which were quite elucidating, and it was rather enlightening to me, at least, to find out the restrictions under which they operated when they finally did.

They have a closed-off room in which the television camera was situated. There was no artificial lighting permitted whatsoever. No person was allowed to leave or enter that television booth during the court procedure. They had pictures of interviews with all the participants including the Judge, the FBI, and the defense attorney, the prosecuting attorney. All agreed that there was no distraction whatsoever, that the trial had proceeded as if there wasn't a television movie camera.

When they presented that and presented their arguments, I for one felt that a great medium of public information such as they are

should at least be given the opportunity to present to the committee what they believed to be a method of disseminating trial information to the general public who would never have an opportunity to see it or hear it. At least they should have that privilege, and so I for one felt that we couldn't deny it without a proper hearing.

This was an impromptu affair. None of us were prepared either to ask intelligent questions or to try to discuss the law that they had before us announced by the Supreme Court of Colorado and other courts.

So I thought that this great dispersing agency or public medium of information should at least be permitted to show to a committee of this Association and Judicial Council what they proposed to do, what they could do so as to observe proper court decorum and not make a mockery and sham out of court procedure.

We haven't recommended that they be given that privilege. We only thought we should extend them the right to show what they could do. For that reason I would support the motion again if I were to vote on it.

MR. FRANK F. JESTRAB: I am not so concerned with the dignity of the legal profession as I am with the proper administration of justice. I do not believe that justice can be properly administered if a court proceeding is a part of a three ring circus.

I do believe, however, that these people, the proponents, if you will, of the plan suggested by the broadcasters, are entitled to a hearing. If they were not satisfied with the first hearing as being due process, I think that the Association, the profession and the cause of justice is strong enough to accord them a second hearing; and I speak in favor of the original motion.

MR. CHARLES A. FESTE: I have a point of inquiry that I would like to ask. The broadcasters are asking for this opportunity to show someone what they can do. Are they attempting to show the lawyers that they can do this on a good basis or attempting to show the public? If we go ahead with this and the headlines and articles appear in the paper that "broadcasters show that they can conduct televised proceedings of a courtroom on a good basis" throughout the state, then they get an advantage of the public thinking that they have done this. Now, are we going to be the ones to judge or the public?

MR. JOHN HJELLUM: I think the pertinent thing here is whether or not they are entitled to a full hearing. I speak against the motion by Letnes.

I think it would ill behoove lawyers of all people in the world to foreclose all admissible evidence in any matter regardless of the merits, whether or not we will permit it. We certainly should enable them to prove the case. I speak against the motion of Letnes.

MR. BRUCE M. VAN SICKLE: I must join with Mr. Jestrab and the others who say that the least we can do is to give these people a chance to be heard for two reasons: First, I should con-

sider the fact that we must be in a position to be sure that we are granting everyone a chance to benefit or to improve the administration of justice.

And then a second point I would like to make is this: As yet we aren't discussing a specific set of facts. We are rejecting this thing in whole. Let's see what the picture is before we attempt to pass on its merits.

I too support the passage of the resolution as presented.

MR. CORBIN A. WALDRON: I would like to rise to support very strongly the position taken by Mr. Lanier and Mr. Letnes.

One thing I think we might have overlooked is that it is the litigant or the public that is concerned with this problem and not necessarily and alone the lawyers, and in the protection of the public we have no right as a group of lawyers to adopt a procedure that will give publicity to people who should not, as their own expression indicate, be subjected to the kind of publicity that they might have if they were forced into this position.

So I strongly support the position taken both by Mr. Lanier and Mr. Van Sickle and Mr. Jestrab.

PRESIDENT ILVEDSON: Gentlemen, I don't want to limit discussion on this. It is a quarter after twelve. I would like to have a vote on the amended motion.

Mr. Nilles, in effect your amended motion is to table the resolution on that?

MR. DANIEL S. LETNES: Table the motion.

I want to add this too, Mr. President, if I may, just one statement; and that is, the experience out in Washington has been that interviewing people that are caught in a traffic violation has created so much publicity and such a big public demand out there that they have to continue that. You turn this loose on the public, and they are going to be crazy for it, they are going to want it.

Finally, they will get a statute or something passed permitting wholesale broadcasting of trials.

PRESIDENT ILVEDSON: Well, in effect your motion was to table the resolution as submitted by that special committee.

Was that your second, Mr. McCutcheon?

MR. E. HUGH MCCUTCHEON: I am only responding.

It was my understanding that Mr. Letnes moved that the whole darn thing be killed. That is what I had intended to be seconding.

MR. J. KENNETH ECKES: I would very much prefer that, rather than going on record as definitely being in favor of any resolution. In other words, let your committee continue if they want to, but don't pass a definite resolution at this time.

PRESIDENT ILVEDSON: The motion has been made to, in effect, kill or table the motion or resolution submitted by the special committee.

Question. All in favor of this motion say "aye"; contrary, "no".

All right. I rule that the "contrary" is the majority.

Now, at this time we come back to the motion by Judge Strutz. It has been moved and seconded that a special committee be appointed, as you recall.

No, are you ready for the question? All in favor say "aye"; contrary, "no." It is carried.

Now, gentlemen, that that is carried, I want to say this: I assure you when I appointed these members of the Bar, for instance, of the State Bar, the three members that were appointed, I did not ask them what they thought. I know since then they are against televising and broadcasting. Just because they submitted that resolution doesn't mean they are not. Don't think they feel the other way. They just felt that this presentation should be made completely and everything should be looked into.

I appeared before the North Dakota Broadcasters meeting at Bismarck two months ago. I was the only one who stood up and spoke against it. I want you to know that.

We adjourn and eat — question. The election!

Well, it was a pretty good race, and our new vice-president is one of those damn Fargo lawyers, Mr. Oehlert.

MR. L. H. OEHLERT: I think this is the time when the new vice-president should be little seen and lesser heard. Thank you very much.

AFTERNOON SESSION, JUNE 24, 1960

COMMITTEE REPORT ON RECOMMENDED MINIMUM FEE SCHEDULE

MR. ALBERT J. GREFFENIUS: President Ilvedson and gentlemen, this report is being made on behalf of Ralph Maxwell, the chairman of the Legal Economics Committee, and on behalf of all of the some thirteen or fourteen members of that committee who are as follows: John R. Davidson, Roy A. Holand, Harris P. Kenner, Fred A. McKennett, Kenneth M. Moran, Kenneth G. Pringle, T. J. Secrest, George E. Sorlie, Gordon Charles Thompson, Dean Winkjer, James H. Williams, Norman G. Tenneson and myself.

It was timely that at the 1959 Bar Convention the bylaws were altered so that there was formed the Legal Economics Committee, and it was appropriate in the development and in the history of the Bar that this should come about.

With this in mind and with that thought in mind, I would like to read to you a brief item which I have here and when I complete it, I will mention to you the source of it:

"During recent years legal periodicals and other sources have provided an increasing amount of information on legal economics. This subject covers a wide range of material in the field of office management, including worksheets, checklists, filing systems, office

equipment, bookkeeping, office layout, billing practices and methods, operating costs, attorney-client relationships, bar surveys, income levels, time records, fees and fee schedules.

"Outstanding among this literature is the series of pamphlets that has been prepared by the Special Committee on Economics of Law Practice of the American Bar Association.

"All of this material has emphasized the failure of the legal profession during the last twenty years to maintain an appropriate economic status.

"This material has also emphasized definite remedial steps that can be taken by the individual attorneys and by their bar associations. These remedial steps cut across the entire field of legal economics, that is, the items I mentioned before, filing systems, office equipment, and so forth.

"They all have three things in common: reducing costs, increasing efficiency and adjusting the fee system.

"It will be necessary to apply all of the suggested remedies to achieve the desired goal. One of the remedies, just one of them, is the fee schedule which attempts to cover all of the types of work that an attorney might be called upon to do.

"Furthermore, a fee schedule should break these types of work down into their component parts for more convenient administration and use, and it should also provide a workable basis for setting a reasonable fee."

I have just read to you a small portion of the introduction of the fee schedule which the Legal Economics Committee has prepared and is now presenting to you. That text appears in the front part of it.

Now, during the first meeting last fall of the Legal Economics Committee, sometime in the early part of November, full discussion was had on what projects the Committee should address themselves to during the year; and various items were selected, one of which was the minimum fee schedule revision. It was felt that this was one of the primary needs that could be taken care of, and Mr. Norman Tenneson and myself were appointed by Chairman Maxwell to a subcommittee to work on this matter.

Now, it would, of course, be an inappropriate thing for us in a meeting of this size and this group here to go over each and every item of the proposed revision, item by item, word by word. This was what the Legal Economics Committee did, and that was their purpose and function; and with a smaller group, such could be done.

What we should do here, and what I hope to do here is to not go into the why of it either — because that too is obvious — but rather, into the how of the thing, how it was accomplished.

The revision was accomplished in this way: The subcommittee prepared a rough or a working draft which was submitted to Chairman Maxwell in late — last year, early December or late November, and that kicked around for awhile; and then later on 150 copies

were printed up and circulated around the state in the hope that it would get to most of you. 150 were printed. Now, we tried to get one, at least one into every county, one into every law firm of two or three or more lawyers, and at least one into every community with the hope that it would get to most everybody else.

Now, there was a cost factor there, and we couldn't shoot the whole works on five or six hundred of them. Along with the fee schedule went a letter requesting that it be reviewed by the individuals, by their local bar associations, and that they forward back to the subcommittee their suggestions, their thoughts, their ideas on the whole thing, and most of you did that. Here is the subcommittee's file of the letters that came back from all of the bar associations and attorneys that wrote to the subcommittee and gave us the benefit of their thinking on it. Not only did all of those attorneys write but several bar associations met. I know definitely of the following five — there may well have been more — Barnes, Cass, Williams, Stutsman and Walsh Counties.

Now then, with all of this material in hand the second step was this: (The second category of work). The full committee met on two occasions, and the subcommittee met on one occasion preparatory to making up the so-called convention draft which has been at the back table today. Now, at both meetings of the full committee each and every single item in the rough or working draft was gone over with a fine tooth comb by the whole committee, the wording of it, the amount indicated, the suggested fee; and at all three meetings — the two full committee meetings and the subcommittee meeting — each and every single letter which was received by the subcommittee was gone over fully, and each item in each of those letters was read fully.

The suggestions fell into two categories. One was where the writer of the letter merely suggested a raising or a decreasing of the amount which they saw in the rough or working draft. As to all of those suggestions we tabulated them so that if this particular item had been set at \$15.00 and there were five suggestions as to a different figure, we put them beside that; and then in full committee everybody decided which would have been the most appropriate figure. So in that sense, most of the suggestions as to actual adjustments in amounts were followed.

However, in the other category of suggestion, all of the ideas were followed, and the other category is this: Where you people suggested an addition, a new item that should be put in or an item that should be altered or changed or made more broad, all of those were followed in order to incorporate your thoughts in it.

Now, during this period when all this took place, April, May, June, and during these three or four months, the subcommittee was constantly reworking this rough or working draft, incorporating all of the ideas from the letters, all of the ideas of the members of the subcommittee and of the full working committee. Certain text material was added as well, and certain members of the Legal

Economics Committee rewrote several portions of it. So that's what happened to the working draft.

Those of you who received the very neat printed copy in the mail — that particular item was used as the working draft which the committee kept working on, and this is how it finally looked. There is not a page that hasn't been marked up and changed or altered in some way, and this was then typed up into the final looseleaf draft here in tab form with the various categories of work identified by the tabs, a little index of the material that's in there, and roughly one category of work on each page. This will be the thing which the publisher will ultimately use, but there are probably a few additions or alterations that need to be made in that too, so that's what has happened to it.

Now, from all of this I would like to make several points: Number one, the convention draft — it is obvious from a moment ago — is quite different from the so-called working draft that you have. When you review and look at the working draft — we regret that we can't mimeograph all of this up and have everyone have a copy for review — but when you look at the working draft, realize this: The format, the arrangement of material, the manner in which the material is covered, and all of those things remain about the same; but the differences are these: The wording and meaning is different in many instances, and of course, the amounts have been adjusted all along down the line. Furthermore, much text material has been added, and keep this in mind too, another point: This revision was not the product of the work of one or two people. It was the product of the work of a full subcommittee working with your ideas. Furthermore, it wasn't thrown together in a couple of weeks just before the convention to have something to show you. Work started on it in November, and it has been continuing steadily since. So the revision has a broad base, and it has a lot of serious thought behind it. It is intended that the fee schedule be put out in looseleaf form. The reason for this is clear. The Committee on Legal Economics wishes to continue working on it and make revisions as they come up with new ideas, as they receive your new ideas. It will be a simple matter to up-date it, keep it current, by changing one or two pages and not making a wholesale revision and standing the cost of printing the whole thing over again. So while the cost, the initial cost of the looseleaf binder might be a little more, it will pay off in the long run because it will make it easy and convenient to alter it and keep it up-to-date and change it.

The fourth point I wanted to make is that the working draft met with general approval in all of your letters, the thoughts were for the most part kind, and so we feel that there, too, it is something which the Bar would like to have. So in effect, many of you have already had a very direct hand in the making of this fee schedule.

Two more items about this now: The fee schedule contains a fair amount of text material regarding the use of the schedule and the theory upon which it is based, the process of setting fees and

what is to be considered, billing procedures, overhead analysis, office procedures and so forth. It is hoped the Committee can continue its work and keep adding to this.

I mentioned at the beginning that a fee schedule should attempt to do three things: It should attempt to cover all of the subject matter that an attorney might be called upon to do. Furthermore, it should break these areas of work down into their component parts so that the fee schedule can be more easily applied to the work that you are doing, and third, it should provide a workable basis for the setting of a reasonable fee, time, minimum, so forth. Your Committee feels that it has provided such a schedule in this revision.

If adopted, the next procedure will be to find out costs, as to what it is going to take to publish these. The Legal Economics Committee will then go to the executive committee and get approval for some sort of action on it; and as I said, it is hoped that we can have it in a looseleaf binder, something of this sort. This is the binder used by the Wisconsin Bar that was just put out. It is a handsome volume which could grace your bookshelf.

So that is the dream of the plan that we have in mind, and with that I will turn the meeting over to Mr. Tenneson, and to probably both of us for any questions that you might have, but first, Mr. Tenneson might wish to say a word.

MR. NORMAN G. TENNESON: Mr. President and members of the Association, if I don't do anything else this afternoon, I want to thank Al Greffenius on behalf of the Committee on Legal Economics and, I think, on behalf of all of you for the work that he has put in in assembling this material that goes into this fee schedule. Al prepared the initial first draft, the so-called working draft. He secured and reviewed schedules from other states, and that formed the foundation from which the full committee worked; and as he has told you, this working draft was circulated among some 150 lawyers.

I believe that is the first time that any fee schedule has ever been so circulated, and the purpose was to get your views as to what you felt were proper charges for these various items that go into a fee schedule. I think I can also say that this schedule is perhaps the most comprehensive schedule that has ever been submitted to a bar association. The committee attempted to list fee charges or suggest the charges, minimum charges for practically every service that a lawyer renders. All your criticisms, comments and suggestions were considered. Many of them were incorporated into the draft. Others were not. There were some that felt that some of the items in the schedule were too high. Others felt that some were too low. Generally, the schedule adopts a per hour charge of \$15.00 an hour as compared with the \$10.00 per hour in the previous schedule, and of course, we of the Committee got quite a bit of encouragement this morning when we heard Mr. Strong speak and learned that the

minimum rate established in his city is \$18.00 an hour. We are \$3.00 under that.

We don't claim that this is a perfect draft. I don't suppose that you ever had a perfect fee schedule with which everybody would be in one hundred per cent agreement. There may be and there are honest differences of opinion as to some of the items in the schedule. We know that, and we accept it; but as I say, we have attempted to, as near as we can, arrive at a consensus of what the Bar felt was a proper charge for these various items.

I think if a schedule is adopted, we could anticipate that it possibly would accomplish two things: First, it should raise the general level of fees as charged in this state. Second, it should help to reduce shopping by prospective clients.

Now, we recognize that we cannot ask any in our Association to abide rigorously by any schedule that is prepared. We thoroughly recognize that there are situations quite often where some reduction may be necessary, and properly so; and I don't think any lawyer should have any feeling that he is violating the schedule, if in considering all the circumstances surrounding the making of a fee, he feels that the charge should be somewhat less than what the fee schedule proposes. I am reminded that we are in a very difficult field here. Mr. Cupler has often said that the hardest job a lawyer has to do is to fix a fair fee, and I think that's true; but we are attempting here to give you some standard or guide by which you can go.

So I think that with these brief remarks, if there are any comments or questions or suggestions from any of you, we would be very happy to answer them if we can.

PRESIDENT ILVEDSON: Gentlemen, you have heard the full report made by the subcommittee of the Legal Economics Committee in regard to a minimum fee schedule. Is that it, Norm? You will see it is indexed, and they have a copy in the back of the room; and if there are any questions, I know these gentlemen will be glad to answer them. If there aren't any, then the next order of business would be a motion that we adopt this schedule that they have prepared as the schedule for the North Dakota Bar Association.

Any questions?

MR. CYRUS N. LYCHE: How can we ask if we haven't seen it? Most of us haven't seen it so how can we vote intelligently on it?

PRESIDENT ILVEDSON: That's correct. If you want to examine it and look at it — I agree that you couldn't do it — I wouldn't say intelligently. I am perfectly satisfied from the work this Committee did; you would accept it; but perhaps if the majority here feel it should first be passed out, there would be nothing wrong with it. It would be up to the body of men sitting here as members of this Association.

MR. L. R. NOSTDAL: I haven't seen the fees of the schedule,

but we appoint committees to investigate those things and they have been working on it for quite awhile. If we see one of those things and just have a few minutes to look them over, we couldn't know any more about it.

So, therefore, I move that we adopt the schedule prepared by the Committee.

PRESIDENT ILVEDSON: It has been moved that we adopt this prepared schedule. Is there a second?

MR. RUSSELL G. NERISON: I second it.

PRESIDENT ILVEDSON: Any discussion, gentlemen?

If not, all in favor say "aye;" contrary. I declare it is carried. Thank you very much, gentlemen, for your good work.

The next thing, gentlemen, getting right on to the next order of business because we have that big banquet tonight, I am going to at this time ask Tom Degnan, your new president-elect — he is the president, let's see. He is right now, by golly, but I guess I am in charge a couple of more hours. I am going to ask Tom Degnan as chairman of the Committee on the Budget to make a special report to you, and he will tell you all about it. Tom, are you around?

MR. THOMAS L. DEGNAN: Mr. President, before this item I would move that a vote of thanks be given to Al Greffenius and Norm Tenneson and their subcommittee for the tremendous amount of work that went into this preparation of the fee schedule.

MR. KENNETH G. PRINGLE: I so move.

MR. A. W. CUPLER: I would say to you men that being in the office with one of the members of the committee, I had access to and I followed it pretty closely. I was privileged to attend one of the meetings of the Committee when Norman was perhaps away for an operation he had and was not present. I got over there and spent the day. Those fellows started at nine o'clock and they worked right through until four o'clock in the afternoon, and we were a full committee present.

I am saying this to you in support of what they said. I became intrigued with the thing, as you will too as you read that fee schedule, and especially if you will read the comments. All of that is very important because it gives the philosophy of a fee schedule and the elements that enter into it. I don't know of anybody that could analyze that any better than Al, the way it was done.

Be sure when you take the fee schedule, you read all the comments and digest it — whether you talk about the fee being too large or small.

I want to heartily second the motion of Ken because I know Ken has been in very close touch with it. I think we owe these men, especially, all a hearty vote of thanks.

PRESIDENT ILVEDSON: The motion has been made and seconded. Question. All in favor say "aye".

I agree it is another good indication of a job well done by fellows that get out and work, and we thank you.

REPORT OF THE BUDGET COMMITTEE

MR. THOMAS L. DEGNAN: The budget, like the fee schedule in some respects, has been the subject of considerable thought this year, more so than usual because it requests a considerable increase in funds. I should like to give you a bit of the background of the activity of this committee.

The original working draft was made by a small committee consisting of John Hjellum, Floyd Sperry, Lynn Grimson, our new executive secretary and myself. The working draft was then submitted to the full committee or advisory committee consisting of, in addition to those named, Harold Shaft, Norman Tenneson, Frank Knox, L. T. Sproul, Cliff Jansonius, August Doerr, Robert Palda, John F. Lord, John T. Traynor, Theodore Kellogg, John R. Davidson, Vernon M. Johnson, A. C. Bakken, Joe Blaisdell and Warren Tripp; and what I am about to give you is the final product of the work of the two committees.

Again I feel that a recitation of figures is somewhat meaningless so I have bracketed the activities of the Bar Association into just three main heads, and I will give you previous years' figures and this year's figures as proposed. Over-all our budget proposes an increase of between ten and eleven thousand dollars in the Bar Association's expenditures depending on which year you compare it with.

To show you where that increase lies, the first group is what we have called the officers' expense and the annual meeting expense. That would be the expense of the president, the vice-president, secretary-treasurer, the full executive committee, and the annual meeting. In other years that item has been \$4,800.00 and \$4,900.00. We propose \$5,300.00, approximately an increase of \$440.00.

The second group that I have prepared is in two parts. The first part is our normal committee activity: the Continuing Legal Education, Ethics and Internal Affairs, Legal Economics, Procedure, Legislative and so forth.

Here the comparison is a little bit difficult because for the past years we have been operating under the new bylaws and the new committee system so that we have attempted as best we could to give you a fair comparison. That group, the first part, all committee activities, we propose \$8,550.00; and the second part of that group consisting of our Law Review activities, scholarships, auxiliary scholarships, our ABA delegate's expense, Judicial Council, Committee on Uniform Laws and a miscellaneous item of \$610.00 totals \$9,860.00 in the new budget.

So that the total there is eighteen thousand some odd dollars. In previous years we spent slightly under eighteen thousand. The average increase in the past few years in that category is about \$450.00. So in those two groups we do not propose any great expansion. You might say the approximate thousand dollars in the two groups is the normal increase in prices that we have been facing.

The third category is the Association office and related costs. This is the office of the executive director, and here, of course, is where the tremendous expansion has taken place and where the great increase for new funds is needed. In comparing these figures, please keep in mind that this year for the first time in our budget we are planning for our own office, we are planning for a full-time executive director over a part-time one; and as you would suspect, the amount is substantially increased.

In other years the expense of the secretary's office has varied from seven thousand to almost ten thousand. This year in our budget we have set up the expense of this activity as \$17,290.00, an increase on an average basis of approximately \$9,000.00. To break that \$9,000.00 increase down slightly so that it is more digestible, the expense, the salary of the full-time executive director is approximately double what the part-time director was. That takes up four thousand, and it is the largest single item of the nine thousand.

We have set in this budget \$1,100.00 for capital expenditures. The immediately contemplated capital expenditure is an offset printing press, and it is the opinion of the Budget Committee that the offset printing press will pay for itself in as quickly as three years, and that then we will be able to do a good part of our own printing at a substantially lower cost than we are now able to do it jobbing it out. The allowance for a secretary in the executive director's office which must be on a full-time basis again, now is the next largest item of expansion; and then the small items that go to make up \$9,000.00 difference are rent and utilities, janitor service and so on. We have increased the allowance for custom printing because of the need to have something set in the budget for the new fee schedule.

That, gentlemen, is the breakdown of the budget. I would be very happy to answer any questions or to refer them to various men of my committee who are more qualified than I am in some respects on given subjects; and when the questions are finished if we have satisfied you, I would like to make some resolutions for the adoption of the new budget.

Before the questions come, the obvious one is: Where does the extra money come from? We are on a fixed fee basis. In our budget of \$41,000.00 total we need \$14,000.00 of new money over and above all other anticipated income.

We have as sources of income the filing fees, Bar Board license fees, Law Review — some of it comes back to us, and the Committee on Legal Education self-sustains itself pretty well. We have a dividend from the life insurance, and we have our own portion of our own license fees.

This fourteen thousand in new money caused quite a bit of concern to the Budget Committee, and we spent a lot of time on it. We didn't all see eye to eye. I don't expect you will all agree with the conclusions either, but when we did get finished with our discussion, we all agreed that this was the budget that we were unani-

mously willing to present to you. As far as we can make it, this must be done. We must have the \$14,000.00 additional money.

We will propose to you in one of our resolutions that the dues be raised on a voluntary basis \$25.00 for each dues paying member.

Perhaps I should read to you the resolution we have proposed so that you can see the whole picture:

'BE IT RESOLVED by the State Bar Association of North Dakota in annual meeting assembled at the City of Grand Forks, State of North Dakota, on June 24, 1960:

"1 That the 1960-61 budget, as presented and recommended by the Budget Committee and Advisory Board be approved and adopted.

"2. That effective July 1, 1960, the Association levy a voluntary annual assessment over and above the statutory dues, in the sum of \$25.00 for each fee-paying member.

"3. That the Association recommends to the Executive Committee that the question of placing the recommended dues increase before the Legislature for enactment into law, be submitted at such time as the Executive Committee may deem advisable and feasible."

Now, are there any questions that you would like to ask on specific items of the budget or that we can give you further explanation on?

MR. CYRUS N. LYCHE: Did you say \$5.00 or just raised to \$25.00?

MR. THOMAS L. DEGNAN: Raises it \$25.00. It is \$25.00 in addition to the annual. \$5.00 would raise but \$3,000.00.

MR. L. R. NOSDAL: Does that mean that the fees now will be \$45.00?

MR. THOMAS L. DEGNAN: Yes. That would mean that you would pay the regular \$20.00 on the annual basis that you do now, and that you would be billed as soon after July first of this year for an additional \$25.00 as possible.

MR. RUSSELL G. NERISON: Mr. Chairman, as far as that \$25.00 increase is concerned, it might come as quite a shock to a lot of people; but I think we have compared ourselves with the medical profession as far as income discrepancies and so forth are concerned — when it comes to paying annual dues for our own organization, we have fallen so far behind that maybe it is explanatory of the reason we have fallen behind in income.

MR. THOMAS L. DEGNAN: The medical dues, I happen to have the figure on that. They paid \$90.00 state dues in addition to their national program.

PRESIDENT ILVEDSON: Are there any other further questions for the chairman of the special committee?

MR. FRANK F. JESTRAB: I move that the report be adopted.

PRESIDENT ILVEDSON: Was there a motion by you for this resolution?

MR. THOMAS L. DEGNAN: For the resolution.

PRESIDENT ILVEDSON: You second the motion he made?

MR. FRANK F. JESTRAB: I second the motion he made.

PRESIDENT ILVEDSON: I think that is clear. He has read the resolution which is the motion.

Is there any discussion?

MR. A. W. CUPLER: May I ask a question, Tom? I gathered from your remarks, Tom, that at the next session of the Legislature the arbitrary or compulsory license fee — we need to call it a dog tax when they first put it in, which has proved very satisfactory to us, however — will be raised, that is, an effort will be made to raise that at the next session of the Legislature?

MR. THOMAS L. DEGNAN: The last part of that resolution leaves the timing of that to the executive committee.

MR. A. W. CUPLER: I see. In that event, may I ask this further question: In that event, this being a voluntary action, no bill to be sent out, it is assumed, of course, that everybody will feel that they are going to be repaid for what they put in and that they will pay it. As I understand it then, in the Legislature if a bill is introduced and the arbitrary license fee is increased, of which we obtain a certain percentage, then that will be it, is that right?

MR. THOMAS L. DEGNAN: That is the conclusion. It is voluntary at this time, and there is no way that you can be compelled to pay this assessment. That is the reason for having it approved by this entire meeting. You have all over the period of the last two years indicated a very strong preference for the employment of a full-time executive secretary. I am sure that the entire Budget Committee and Advisory Committee, and I know the Judicial Committee, the Advisory Committee of the Bar, the Association, feel you will be repaid for the extra money. It boils down to this: You cannot have a full-time executive director unless you are willing to assess yourselves.

PRESIDENT ILVEDSON: Any other discussion?

MR. A. W. CUPLER: With the explanation, I would second the motion; and I feel that we will get our money back in due time. When you get the fee schedule working and get this thing operating like the doctors and others do, our revenue will be increased. If it isn't, it is our own fault. There is no reason in the world in my opinion why a lawyer in a smaller town — I will just take Fargo, Grand Forks, Minot and compare them with these other cities — there is no reason the lawyer in the smaller community should not be paid just as much as the lawyer in the big one. Farmers pay for automobiles as they pay other fees, and in my opinion many of us are working too cheap. It is our own fault if we continue to do

it. We have to pay money to bring about results. I hope this pays off. I am in favor of it. I second it.

PRESIDENT ILVEDSON: Is there any other discussion?

MR. FREDERICK E. SAEFKE: I have a question. Will this result as a matter of practicality in a double payment in any one year? I have this in mind: That by paying \$25.00 now and should the committee choose to have some subsequent Legislature pass a bill which would require the payment of \$45.00 before January first, now having paid the \$25.00 in July, would he then be required to pay \$45.00 in December for the ensuing year's license?

MR. THOMAS L. DEGNAN: That is a good question, and we discussed that at our budget meeting and the conclusion we came to is this: That if there was an increase in dues, it would not become effective until July. It would not be an emergency bill. Then we would adjust them on that basis. You will not be overcharged. If it should result that you have been, we don't need that extra money, we don't have to overcharge you so the Bar Association itself could take care of adjusting that if it didn't work out otherwise.

MR. CYRUS N. LYCHE: How is that? You mentioned, Tom we get part of the license fees. If the Legislature adopts it, we will get all the additional \$25.00?

MR. THOMAS L. DEGNAN: That would be the way we would put the bill in, Cyrus. If we did go before the Legislature, we would clear our bill through the Legislative Research Committee. That will have to be the text of the bill, otherwise it doesn't accomplish the purpose. That is one of the reasons we leave the handling of that to the executive committee which is a more pliable group than the whole committee.

PRESIDENT ILVEDSON: Are there any other discussions? If not, all in favor of the motion say "aye"; contrary.

Gentlemen, I want to thank you very much for your patience so far this afternoon. I am trying to hurry this thing, and I want to thank, before we get off this subject, those members of that large Advisory Committee that came from all over the state in here early Wednesday to discuss this matter besides having done it by correspondence previously. Thank you for taking that time away from your offices.

Now, the next thing before I go on here, Mr. Nostdal, I told you I would give you the floor again. You may have it.

MR. L. R. NOSTDAL: I will tell you, I have been fixing to study the matter that I am going to bring before the committee and discuss it with some of the members here. It is about the waiving of the annual fee schedule for certain old-timers. Most of us are getting so old we can't earn much, and it means quite a lot to us. Some of you are not in the same position, you have some position, county judge, assistant attorney general, something like that. They

don't have to pay dues, but us poor fellows out in the sticks, we have to pay it, and it isn't always so easy. I am going to put in a motion that the number of years when the fees were waived should be \$35.00, but I have been talking to some of the members and after listening to the prediction of the Budget Committee, I thought we would put it up to \$50.00 for that.

PRESIDENT ILVEDSON: You mean fifty years?

MR. L. R. NOSTDAL: Fifty years, yes.

PRESIDENT ILVEDSON: I thought something new was happening here.

MR. L. R. NOSTDAL: I move, Mr. President, that the annual license fee be waived for lawyers that have been members of the Association and paid their dues for a period of fifty years.

PRESIDENT ILVEDSON: The motion he makes is, as you heard, that the dues be waived for the practitioner that has practiced fifty years. Is there a second?

MR. KIRK SMITH: I second that motion.

PRESIDENT ILVEDSON: There has been a motion made and seconded. Is there any discussion?

MR. ROY A. PLOYHAR: Mr. President, I think it is a little bit out of line in view of the report of the Budget Committee. I thought Louie was speaking for me when he mentioned someone who had practiced fifty years and was unable to pay any dues; but if Louie gets that hard up, I will pay his. I don't think I have to do that.

Seriously speaking, this is a bad time to go ahead and promote anything on the waiving of dues when we need all the money that we can get ahold of. We would like to go into the program of having our full-time executive secretary perform a valuable service. We can't do that without money.

Now, I am not saying Louie doesn't have some merit to his suggestion. I would like to see it put into the hands of the executive committee for those matters to be given thorough consideration — and not be led astray by the fact that we might be sympathetic. We need the money badly. Let's forego that for this year at least.

MR. L. R. NOSTDAL: May I answer that?

This idea of referring matters to some committee or something else is an old trick we used to use in the Legislature. When we wanted to kill a bill, we would have it referred to some committee that would put it in a drawer and forget about it.

I certainly believe that members of this profession are not all as hard up as I am. I know that because forty or fifty dollars to you guys in Fargo and Bismarck doesn't mean much compared to what it does out on the prairie.

I certainly believe that the person that has been taking part in

the work of the Association and paid his dues for a period of fifty years is entitled to some consideration. You are talking about the budget. There are not very many—I don't believe there will be more than three or four of the present members that would be entitled to the benefits of it. Some of the rest of you at my age have some position where you are exempted from paying the dues, and I don't believe, if this motion is carried, it would amount to more than forty or sixty dollars in a year, and I think we can afford that.

PRESIDENT ILVEDSON: I might say, Mr. Nostdal, that in the first place we can't waive what the Legislature has set. Our license is set by the Legislature. Now of course, this voluntary assessment, I agree it could by your resolution be waived for the gentlemen he is speaking of, more than fifty years; but again when the next session meets and we should pass a bill, it would still be up to the Legislature.

MR. L. R. NOSTDAL: I understand that, of course. Of course, my motion implies that the Legislative Committee prepare the proper law and present it at the next Legislature; and those fellows who are in the Legislature want to cut down expenses, and they will help us do it.

MR. NORMAN G. TENNESON: I move as the substitute motion that the entire matter be referred to the executive committee for their sympathetic consideration.

PRESIDENT ILVEDSON: Is there a second to this substitute motion?

MR. WARREN A. TRIPP: I second the motion.

PRESIDENT ILVEDSON: Any discussion? All in favor say "aye"; contrary, "no".

Mr. Nostdal, be assured we have the highest respect for you, and you are a good sport about it.

REPORT OF THE RESOLUTIONS COMMITTEE

MR. JOHN A. STORMON: Mr. President and gentlemen of the convention, your Resolutions Committee begs leave to submit the following resolutions; and at the end of the reading of each resolution, a motion will be made for its adoption at which time each resolution can be discussed and action taken:

"WHEREAS, it is difficult if not impossible for self-employed persons to accumulate during their earning years a sum sufficient to provide them with reasonable security after the close of their active professional and business life within the framework of the present income tax laws,

"AND WHEREAS, the Congress of the United States has now before it for consideration and action H. R. 10, which fairly incorporates the so-called Smathers, Morton, Keogh, Simpson Bill, and has the full support of the American Thrift Assembly, and is designed to remedy this inequality in the American Tax Laws;

"NOW, THEREFORE, BE IT RESOLVED BY THE STATE BAR ASSOCIATION OF NORTH DOKOTA, in annual convention assembled, that the provisions of H. R. 10, are just, fair and equitable and is legislation which will permit thrifty self-employed persons to accumulate a reasonable competence for their declining years;

"BE IT FURTHER RESOLVED that the effect of H. R. 10 is to accomplish this worthy result within the limits of equity and fairness and with due regard for the rights of others and to put thrifty self-employed persons and their qualified employees in a position equal to that of persons employed by corporations;

"BE IT FURTHER RESOLVED that the Congressional delegation of the State of North Dakota be, and hereby is respectfully requested and urged to vote in favor of and support H. R. 10, which incorporates in a form most acceptable to all persons concerned, provisions by which thrifty self-employed persons can create for themselves and their qualified employees a modest income in their old age.

"BE IT FURTHER RESOLVED that copies of this Resolution be sent by the Executive Director to the members of the North Dakota Congressional delegation."

Mr. President, I move the adoption of this report.

PRESIDENT ILVEDSON: Is there a second?

MR. LYNN G. GRIMSON: I second it.

MR. FRANK F. JESTRAB: I have been asked to outline very quickly some of the provisions of H. R. 10. The chairman of the Resolutions Committee says that it is very important that everybody understand it. I am not so sure that I do myself; when I finish, if any of you have any questions, I will be glad to answer the questions if I can. If I can't, if you will please write me your questions, I will look the answers up for you and send you the results of any search.

In general H. R. 10 provides for the creation of pension plans with the approval of the Treasury Department, and it further provides that the first \$2,500.00 or ten per cent of earned income may be placed in these — in this qualified pension plan and will not be subject to income tax until such time as it begins to pay out.

The second important feature is that if the money is paid into a trust, the income of a trust or capital gains are not taxed, that is, both the income and the capital gains of a pension trust are exempt from the income tax laws. Under the present statute or the proposed statute, rather, certain employees must be included. That is, you can exclude temporary employees, but it is thought that the Senate will insist that employees generally be covered.

The bill also provides for a profit-sharing plan without any commitment; you see, for continuing or for making contributions in unprofitable years so that you don't have a permanent obligation.

It is further provided that if there is an early take-down, there

will be a tax penalty and disqualification of the individual for a period of time.

In the rough that is the essence of H. R. 10. If you have any questions, I will be glad to try to answer them.

PRESIDENT ILVEDSON: Gentlemen, any further discussion? Question. If not, all in favor of this resolution say "aye;" contrary. It is carried.

MR. JOHN A. STORMON: Resolution:

"WHEREAS, present state law vest in the State Highway Department certain power with respect to suspension and revocation of drivers' licenses which are judicial in nature;

"AND WHEREAS, the members of this association subscribe to the principle that individual rights and privileges are deserving of careful and judicious handling;

"NOW THEREFORE, BE IT RESOLVED that this Association go on record as favoring reappraisal of the law which so delegates said powers with the view to returning and retaining in the Courts those powers which are judicial in nature."

Mr. President, I move the adoption of the resolution.

PRESIDENT ILVEDSON: John, was that one of the resolutions submitted to you by a Bar Association?

MR. JOHN A. STORMON: The subject matter was submitted by a district Bar Association.

PRESIDENT ILVEDSON: Which one was it?

MR. JOHN STORMON: The Third District.

PRESIDENT ILVEDSON: I see.

Gentlemen, you have heard this resolution. Is there a second to the motion?

MR. L. H. OEHLERT: I will second it.

PRESIDENT ILVEDSON: Is there any discussion? Question. All in favor say "aye;" contrary, "no." It is carried.

MR. JOHN A. STORMON: Mr. President, I may say that one Bar Association has been active in considering a large number of matters, one district Bar Association, and that the members of this Association should understand that this is one of the avenues open to a district Bar Association, is to consider and present to this Association such subject matters, so bear in mind for your annual meetings during the year.

Another resolution:

"WHEREAS, unwarranted criticism is directed towards the legal profession for delays in closing estates due to delays in the audit of Federal Estate Tax Returns,

"AND WHEREAS, the members of this association believe that

some steps should be taken to expedite and obtain earlier audits of Federal Estate Tax Returns by the Internal Revenue Service,

"THEREFORE, BE IT RESOLVED BY THE STATE BAR ASSOCIATION OF NORTH DAKOTA, that we petition the Commissioner of Internal Revenue, in the Treasury Department of the United States, to take such action as may be necessary to expedite earlier audits of Federal Estate Tax Returns."

Mr. President, I move the adoption of the resolution.

PRESIDENT ILVEDSON: Is there a second?

MR KENNETH G. PRINGLE: I second it.

PRESIDENT ILVEDSON: Any discussion? All in favor say "aye;" contrary. It is carried.

MR. JOHN STORMON: Mr. President, we submit a further resolution, and this by the way comes also from a district Bar Association:

"WHEREAS, the probate and other related law of North Dakota with respect to:

"(1) Personal exemptions for estate tax purposes;

"(2) Distribution of the County share of estate taxes, particularly as to real estate; and

"(3) Partial distribution upon petition of the legal representative after payment of claims and determination of obligations, have not been reviewed, considered or updated by the Legislature in recent years;

"NOW, THEREFORE, BE IT RESOLVED by this Association that we go on record as favoring careful consideration by and action upon above-mentioned subjects by the Executive Committee and such other Sub-Committee of the Association as may seem proper."

Mr. President, I move the adoption of this resolution.

PRESIDENT ILVEDSON: Is there a second?

MR. DONALD C. HOLAND: I second the motion.

PRESIDENT ILVEDSON: Any discussion? Question. All in favor say "aye;" contrary. It is carried.

MR. JOHN A. STORMON: Now, we come to the final and usual resolution, that one that frequently is the only resolution this committee brings in:

"WHEREAS exceptional accomandations and entertainment have been provided for us by the City of Grand Forks, and the Grand Forks County Bar Association, and we have had an exceptional and outstanding annual convention,

"THEREFORE BE IT RESOLVED BY THE STATE BAR ASSOCIATION OF NORTH DAKOTA, that we express hearty appreciation to the City of Grand Forks, and the Grand Forks Bar Association, for excellent convention arrangements, and that we express to the Walsh County Bar Association our appreciation for the excellent coffee-breaks provided.

"BE IT FURTHER RESOLVED that we express our sincere appreciation to Hon. John C. Satterfield, President-elect of the American Bar Association for his visit to our annual meeting, and for his fine and timely address.

"FURTHER that we express our appreciation to Kline D. Strong, Attorney of Salt Lake City, for his demonstration and talk on professional management, and to William C. Babcock, President, Minnesota Patent Law Association, for his fine talk on patent attorney problems;

"FURTHER that we express our appreciation to Hon. Samuel Freedman, Justice of the Court of Appeals of the Province of Manitoba, Canada, for his appearance and address to be delivered at our annual banquet;

"FURTHER that we express appreciation to the committee arranging for the sectional meetings, and to the leaders and sectional panels, for an exceptionally fine and complete presentation of the subject matters presented at the four sectional meetings.

"FURTHER that we express appreciation to the law book publishers and all others who contributed the many details of our program and convention."

And this is respectfully submitted by William S. Murray, Donald C. Holand and John A. Storman, Chairman.

Mr. President, I move the adoption of the resolution.

PRESIDENT ILVEDSON: Is there a second?

MR. ROBERT Q. PRICE: I second it.

MR. A. W. CUPLER: John, may I make one correction in that resolution relating to Mr. Strong's address? You say "professional management." I think it should be what — office management for the legal profession.

With that I second the motion.

PRESIDENT ILVEDSON: All right. We will make the correction. This is very controversial, I know, and we will limit talks to ten minutes. All in favor say "aye".

We will get rid of some of these prizes, and then we have a few more announcements.

MR. HENRY G. RUEMMELE: This book probably isn't approved. Bankruptcy Practice and Procedures — now that we are solven — put out by the Allen Smith Company from Minneapolis. The winner is Lynn G. Grimson.

The next volume we have is Perkins on Criminal Law, and the Foundation Press. The winner is William S. Murray. Is he here? If he is not here, we will pull another name. R. H. McEnroe. He was here in spirit. Robert Feidler. Albert Greffenius.

Another volume, Lattin on Corporations, by the Foundation Press. Harold D. Shaft. James Gordon Caldis, Byron L. Edwards, Grace Alphson Melgard, right in Grand Forks. Leslie F. Forsgren, Daniel R. Twichell, Francis Reichert.

We have a volume of Fraud under Federal Tax Law, Commerce Clearinghouse. Lowell O. Tjon, Lewis H. Oehlert.

And Maloy Medical Dictionary for Lawyers, Mike Callahan. Francis Breidenbach.

American Jurisprudence, Taxation, T. O. Crosley's. Richard H. McGee. One book for everybody pretty soon. Norris C. Bakke, Conrad Ziegler.

Another Am. Jur. This one on Evidence. John C. McClintock, H. A. Mackoff, Cyrus N. Lyche.

MR. CYRUS N. LYCHE: I have Am. Jur. Draw another name.

MR. HENRY G. RUEMMELE: O. K. Paul Benson. I think they have it too. John C. Haugland, Jon R. Kerian, Clyde Duffy, Thomas D. Butler.

Am. Jur. on Sales, Charles E. Crane.

Am. Jur. on Insurance. Robert Vaaler, Floyd B. Sperry.

MR. FLOYD B. SPERRY: Now, I know it is on the level.

MR. HENRY G. RUEMMELE: The Law of Modern Commercial Practices by Whitney. Baker Voorhis. Herbert G. Nilles, Neil Thompson, William Lindell, Robert McConn, Albert Lundberg, R. H. Sherman.

The last prize we have — Mr. Sherman has turned his down so we will keep on drawing. L. T. Sproul.

The last prize we have is Jones on Evidence, a four volume set, Bancroft-Whitney. John G. Shaft.

MR. HAROLD D. SHAFT: That's my name.

MR. HENRY G. RUEMMELE: William Lanier, Frank J. Kosanda, Donavon K. Stetson.

While I have the microphone, I would like to make an announcement or two. The banquet will be held in this room. The hall will be opened up, and we will hold the banquet in this same room. For your information I would like to give you the latest figures I have on the registration: 272 lawyers registered and 168 women.

I do think also that perhaps the executive committee might go into the matter of registration fees at the conventions and discuss them, as to possible changes, leaving them where they are or reconsider them again for future years. Thank you.

PRESIDENT ILVEDSON: I'll tell you, if I ever go down in Nevada and open up a crap game, this guy is going to be my dealer. I have never seen a more rotten puller out of a box. What a poor drawer he is.

I think the record should show, as someone suggested, that in regard to the assessments, that it was unanimously passed. Let's show it was unanimous.

Don't forget the banquet at 7:00 o'clock tonight. I am sure it is going to be a very enjoyable, terrific dinner. In just a few minutes

we will have a sectional meeting. Some are going home and some are staying.

I want to thank you for those going home. I want you to know that. I want to thank the committee here at Grand Forks of which Bud Ruemmele was chairman, all of the people who worked so hard.

Also, I thank you for the privilege you have given me of serving you one year. Thank you.

We stand adjourned.

. . . The meeting then adjourned at three-thirty o'clock. . . .

COMMITTEE REPORTS

(The following committee reports were filed with the Executive Director and were made a part of the record.)

CONTINUED LEGAL EDUCATION

Activities for the Committee commenced with a committee meeting held at Jamestown, North Dakota, October 2nd, 1959, at which meeting the tentative plans were established for the ensuing year. Numerous topics were discussed for proposed institutes and at the organizational meeting it was decided that two institutes would be arranged. The first institute would be held in December, being in the nature of a tax institute, and the second institute would be held during early 1960 and which would be a Trials institute. Recognition was also given as to the fact that the committee would be responsible for the sectional meetings at the annual convention in June.

The Tax Institute was held at Bismarck, North Dakota, on December 11 and 12, 1959. The able services of Professor Willard Pedrick, Northwestern University Law School, Chicago, Illinois, was obtained for the presentation of the topic entitled "Corporate Taxation — The Option Play". Mr. Kenneth Jakes, Assistant Attorney General, State of North Dakota, presented the topic of Federalized North Dakota Tax Return. The meeting ended Saturday with an excellent panel discussion on estate planning presented by T. L. Degnan, Phil B. Vogel and Kenneth G. Pringle. The institute was very well attended with approximately 90 registered attorneys and several guests in attendance.

At the evening prior to the tax institute, another committee meeting was called for planning the last minute details of the tax institute, as well as future planning for the Trial Technique Institute which was planned for early 1960. We were happy to announce that, through the efforts of a non-committee member, Bill Murray, of Bismarck, North Dakota, it would be possible to obtain the able services of Mr. Melvin M. Belli to present a one-day seminar on Trial Techniques. A new venture was introduced at this institute, namely, that the scope of the institute was broadened to include our neighbor states of South Dakota and Montana. The matter was first cleared with the executive committee and authorization granted to include the committee chairman from Montana and South Da-

kota, in the planning stages of our committee. This was a great experience for the committee.

Inasmuch as the seminar involved the three states of North and South Dakota and Montana, the committee felt it best to hold the Institute at Bismarck, and for which purpose the House of Representatives' Chamber of the Capitol was obtained. Through the enjoyable cooperation of the states of Montana and South Dakota the seminar was held Saturday, February 27, 1960, commencing at 9:00 o'clock in the morning and terminating at 5:00 o'clock P.M. More than 100 attorneys attended the institute plus several guests of the medical profession so that the House Chamber was completely filled, with many people sitting, in the balcony observing. Since the seminar was one at which the lawyers of the neighboring states were invited, a program was planned for the ladies as well. This of course increased the cost of putting on such a seminar but which cost was offset by the fact that Mr. Belli made no charge for any services rendered on his own behalf, the only expense of the seminar being his travel expenses, housing and the direct expenses of putting on the seminar. The seminar was well received by those in attendance and the committee feels one that was well worth the endeavor of the committee.

A Law Office Management Institute was conducted in April, 1960, at the Frederick Martin Hotel in Moorhead, Minnesota. The institute was the result of the joint efforts of the Continued Legal Education Committees of the Minnesota State Bar Association and the State Bar Association of North Dakota. Co-chairmen of the Institute were Gaylord A. Saetre of Moorhead, Minnesota and Herman F. Wegner of Fargo, North Dakota. Ninety-two attorneys from Minnesota and North Dakota attended the Institute which was moderated by Professor James L. Hetland, Jr., of the University of Minnesota Law School. The following list of topics was presented: Economics of Law Practice by Luther M. Bang of Austin, Minnesota, Minimum Fee Schedules by Howard West of Rochester, Minnesota, and Albert J. Greffenius of Valley City, North Dakota, Law of Equipment by Phil Habermann, Executive Secretary, Wisconsin State Bar Association, Partnership Agreements by Robert F. Henson of Minneapolis, and Filing Systems on Cases and Memorandum, Indexing Systems and Office Policies by John G. Dorsey of Minneapolis. General arrangements were handled by Tom Myers, Executive Secretary of M.S.B.A. An evening banquet featured James Bain, President of the Minnesota State Bar Association.

At the eve of the Belli Trial Technique Seminar, the committee again met and planned for the sectional meetings of the State Bar Convention. Topics had been planned and the Bar Association as a whole was circularized to obtain a cross-section idea as to the type of sectional meetings desired. The topics of probate procedure, title standards and abstract examination, evidence from the practical side, and business organization were most frequently requested. Thereupon the committee obtained the services of T. P. McElroy, James A. Leahy and Kenneth G. Pringle to present a panel on pro-

bate procedure, H. G. Ruemmele to present title standards and abstract examination, Clyde Duffy and Ted Kellogg to present evidence from the practical side, and John Hjellum and Ernest Fleck to present business organization.

A report of this nature would not be complete without an expression of appreciation for the wonderful cooperation the chairman has received from his committee. It has been a hardworking committee and the willingness of the committee members to accept responsibility has been truly exemplary. Expression of appreciation should also be given to the many lawyers of the Bar for their willingness to participate in the various programs of the continued legal education committee by rendering their service and time to further educate their fellow lawyers. Particular appreciation should be shown the various lawyers who have taken precious time away from their busy practice to present the papers for the various institutes and sectional meetings. Their names are as follows:

T. L. Degnan
Phil B. Vogel
Kenneth G. Pringle
Kenneth Jakes
T. P. McElroy
James A. Leahy

H. G. Ruemmele
Clyde Duffy
Ted Kellogg
John Hjellum
Ernest Fleck

Dated this 1st day of June, 1960.

Robert Chesrown
Warren A. Tripp
William J. Daner
W. C. Lynch
John E. Rilling
James R. Jungroth

A. C. Bakken
A. F. Arneson
James H. O'Keefe
Harold M. Hager
Cyrus N. Lyche
Herman Weiss, Chairman.

ETHICS AND INTERNAL AFFAIRS

This committee has had two full meetings of the entire membership during the past year and there have been many subcommittee hearings. The cases considered ranged all the way from the failure of members of the Bar to furnish status reports to clients or forwarding counsel to complaints of violation of ethics and the standards of the profession justifying possible disbarment proceedings. In all, the full committee considered 28 complete cases. In addition, many matters were disposed of through correspondence by the chairman direct. Most of the complaints received were satisfactorily explained and disposed of. The remaining few were referred to the Executive Committee with recommendations for further action.

Under the new by-laws, the membership of this committee was expanded to twelve. The new by-laws further provide that the authority of this committee is limited to making recommendations to the Executive Committee. Because of the expense and difficulty of getting lawyers from all over the state to committee meetings,

perhaps the number should be reduced. Possibly consideration should be given to grant the committee more than just the power of investigation.

A special subcommittee has been working on annotating the canons of the Bar Association and hopes to be able to present to the Executive Committee a complete draft ready for the printer following approval.

Milton K. Higgins
Romen H. Fitzner
Philip R. Bangs
Michael R. McIntee
E. T. Conmy, Jr.
Patric T. Milloy

Robert E. Dahl
Daniel S. Letnes
Francis J. Magill
William C. Kelsch
Richard L. Healy
Mart R. Vogel, Chairman.

INFORMATION AND SERVICE

The Information and Service Committee of the State Bar Association of North Dakota was an expansion of a former committee, the Public Relations Committee. This year's projects were expanded greatly to include the work of other committees in past years. It was the aim of the Information and Service Committee to continue some of the projects on which special efforts were concentrated in past years and to expand a few new projects. The establishment of the office of an Executive Director will make this committee's activities in the future more useful and productive.

NEWSLETTER. This year the SBAND Newsletter was published monthly as was started in 1959. The Newsletter was assembled and printed through the office of the Executive Secretary with material supplied by the Information and Service Committee of the Bar Association. The primary function of the Newsletter is to keep the members of the Association current with the activities carried on. Since the establishment of a full time executive director, the entire publication is prepared in that office. Published monthly.

LAW DAY 1960. Again this year, this very important program was carried on under the supervision of the Information and Service Committee. Serving as chairman of this project for the second year was Clinton R. Ottmar of Jamestown. As was done last year, the district presidents of the Bar Association selected the chairmen in each county throughout the state to carry the program to the high schools, service clubs and the general public on a county basis. Assisting Ottmar in the successful completion of the program this year was Dale Jensen of Bismarck. Taking part in statewide television programs were Vice President Tom Degnan, who conducted a program over television stations KXJB-TV of Valley City, and KBMB-TV of Bismarck. President Roy Ilvedson, along with attorneys Harris Kenner and LeRoy A. Loder of Minot, conducted a similar program over KMOT-TV of Williston.

Mr. Ottmar should again be given congratulations this year for his splendid organizational work in this most important project.

CONSTITUTIONAL AWARDS PROGRAM. This year this project was placed under the supervision of the Information and Service Committee, having been a separate committee in past years. The project this year was under the able direction of John G. Shaft of Grand Forks, who was assisted by Carlton G. Nelson and James L. Lamb, also of Grand Forks. As during the previous eleven years this project has been in effect, every high school in North Dakota was contacted and asked to name a student who had the best understanding of the functions of the Constitution and our system of Government. Of the 371 high schools of the state who were contacted, 189 schools participated in this year's program, at which 141 attorneys throughout the state were requested to make the presentations. The number of schools participating was down slightly from last year but it was the hope of the committee that more interest would be shown by the high schools in this project next year.

WORLD PEACE THROUGH LAW. This project which was instituted last year under the sponsorship of the American Bar Association, Mr. Harold Bangert of Fargo, served as chairman this year for the State of North Dakota. Mr. Bangert's activities included a regional meeting at Chicago dealing with the program. The main purpose of the project this year was to stimulate the World Peace Through Law idea among the lawyers and laymen of North Dakota.

PUBLICATION OF LEGAL PAMPHLETS. It was the feeling of the Information and Service Committee that more pamphlets dealing with various fields of law should be made available to the public, primarily through distribution through lawyers' offices. To promote this endeavor, Mr. Charles A. Feste of Fargo was named chairman to assemble and gather information suitable for publication in pamphlets dealing with North Dakota law. Although the project was not completed this year, it is the hope that the Information and Service Committee, together with the office of the Executive Secretary, can complete the work that was started this year.

Also under the supervision of this committee were the projects of the American Bar Association membership and that of Professional Cooperation with other professions. Mr. LaVern Neff of Williston was chairman of the ABA Membership committee and continued the high standing in this field that North Dakota has enjoyed in the past years. No problems were presented to the committee in the field of professional cooperation.

With the establishment of a full time Executive Director, the work of this committee in future years can be greatly expanded with more benefits being received by members of the Association as well as the general public.

Respectfully submitted,

LeRoy A. Loder, Chairman
Harold W. Bangert
Charles A. Feste
Donald R. Hansen
Dale H. Jensen
Frank T. Knox

James L. Lamb
Herbert L. Meschke
LaVern C. Neff
Carlton G. Nelson
Clinton R. Ottmar
John G. Shaft.

INFORMATION AND SERVICE REPORT OF WORLD PEACE THROUGH LAW SUB-COMMITTEE

This Committee has had very little activity at the State level during this past year. The Committee has accumulated a substantial fund of information distributed by the American Bar Association Committee on World Peace Through Law. This information has been circulated in preparation for regional international conferences intended to be held during the next twelve months. We believe that during the ensuing year there will be an opportunity for substantial activity at a State level, in preparation for these conferences, and that it is most important that all states have functioning committees to participate in this activity.

As part of its activity, the ABA Committee assigned to state committees the responsibility for becoming familiar with the laws of various countries. North Dakota has been assigned Denmark and Southern Rhodesia. Correspondence is under way with a view to establishing contacts in these countries.

Your Committee Chairman has had correspondence with John R. Connolly, Anchorage, Alaska, concerning the possibility of work of a similar nature in Alaska. Your Committee Chairman has written to Senator Karl Mundt with reference to the Connolly Amendment.

Your Committee Chairman has had several visits with Charles S. Rhyme, Chairman of the ABA Committee.

The Ford Foundation has made a grant of \$350,000, and the International Cooperation Administration a grant of \$200,000 to support the work of the ABA Committee.

Respectfully submitted,

Harold W. Bangert.

JUDICIAL SELECTIONS

During the past year, your Committee on Judicial Selections has conducted two district plebiscites for nominations for appointment of district judges in the Fourth and First Districts.

The procedure which was followed in the two plebiscites was not exactly the same for the reason stated below. In the Fourth District plebiscite, occasioned by the death of the Hon. C. L. Foster of Bismarck, we first submitted a secret nominating ballot to all members of the Bar in the Fourth District, asking each lawyer to place one name in nomination. These ballots were then canvassed and the 6 names receiving the highest number of nominating ballots were submitted on a second ballot. Prior to the drafting of this

ballot all of the potential nominees were contacted to determine their willingness to accept, should they be appointed by the Governor.

On the second ballot, we asked each lawyer to vote for three, making them 1, 2 and 3 on order of preference and stated that on canvass, a weight of 3 would be given to each first choice, 2 to each second choice and 1 to each third choice.

Upon canvass of the final ballot, the three names, together with the weighted total of each, were certified to the President of the Association and he in turn submitted the results to the Governor. The Governor chose one of the three nominees for the appointment.

Prior to the submission of the first ballot, or nominating ballot, in the Fourth District, the attorney of Burleigh County conducted an inquiry to determine who might be interested in the appointment. The names of those who were interested were given wide publicity, so the Committee feels that the intention of the motion passed at the 1959 State Bar Meeting giving all members of the Bar the opportunity to have their names appear upon the preliminary ballot was carried out; although the names were not actually printed on the ballot. The Committee should have put these names upon the ballot; and we hope that no harm has been done because of our neglect to do so. We believe that all of the attorneys who signified an interest were either nominated in the first ballot, or received a substantial number of votes indicating knowledge on the part of their colleagues of their interest.

In accordance with the directive adopted at the 1959 annual meeting, the Committee advised the lawyers in the Fourth District that a vote for only one of the persons on the last ballot would be given a weight of one, not three; and a vote for two names would be given a weight of two to the first choice and a weight of one to the second choice. The Committee believes that the purpose of the directive was accomplished; that is, single-shot voting was discouraged.

A preliminary letter was sent to all lawyers of the First Judicial District advising them of the intention of the committee to conduct a plebiscite and requesting that anyone interested who would accept the appointment, might have his name printed upon the first or nominating ballot by advising the Committee. Two attorneys indicated their interest and their names were printed upon the nominating ballot. The tabulation of the nominating ballot revealed that only the two attorneys whose names had been printed upon the ballot received more than three votes; so after obtaining their consent, the final ballot was eliminated and the names of the two were submitted to the Governor by the President of the Bar Association.

The Committee believes that the members of the Districts involved complied admirably with the motion adopted by the Association at the 1959 meeting disapproving of group action, group publicity and group campaigning for candidates.

The Committee has prepared forms to use in future plebiscites which speed up the procedure materially.

There may be a state-wide plebiscite within the next few weeks. If required, the committee will conduct an election to choose three attorneys to be certified to the Supreme Court as nominees for a vacancy on the State Bar Board.

Respectfully submitted,
John C. McClintock
Ralph S. Oliver
Paul L. Agneberg
Ralph J. Erickstad
Neil Thompson
Harold D. Shaft
John C. Haugland
Olaf M. Thorsen
John T. Traynor, Chairman.

LEGAL ECONOMICS

The Legal Economics Committee has had an active year. Three meetings of the full committee were held and there were a great many sub-committee meetings. The work undertaken was divided into two main categories, (1) revision of recommended minimum fee schedule, and (2) preparation of check lists for a proposed North Dakota Lawyers' Desk Manual.

REVISION OF RECOMMENDED MINIMUM FEE SCHEDULE. A great deal of time and work was spent by the sub-committee for fee schedule revision in the preparation of a completely revised schedule. Two meetings of the Legal Economics Committee were devoted entirely to discussion of the schedule and in making suggestions and revisions of the same. In addition, the proposed fee schedule was circulated among attorneys in all of the counties of the State for suggestions and comments. Several local bar associations gave study and consideration thereto and their suggestions and recommendations were very helpful. A final draft is to be submitted for approval at the 1960 Bar Association Convention. Messrs. Norman Tenneson and A. J. Greffenius, sub-committee members, are scheduled to make an oral presentation of the proposed schedule at that time.

CHECK LISTS. Sub-committees of the Legal Economics Committee have prepared check lists for inclusion in a proposed North Dakota Lawyers' Desk Manual of the following five subjects:

- Partnerships
- Corporations
- Negligence Actions
- Adoption
- Time Record Maintenance

The work of this year's committee, together with that of previous committees, has now developed check lists on twelve separate subjects. While there are numerous other subjects open which check

lists could be prepared, the volume of work accomplished so far is approaching the point where next year's committee should consider printing and distributing all the compiled material among the members of the Bar.

RECOMMENDATIONS. The committee has the following recommendations to make: (1) The proposed fee schedule, if adopted by the 1960 annual meeting, should be printed and distributed to all practicing attorneys in the State. It should be in a loose-leaf folder for ease in supplementation or correction. It is recommended that a nominal charge be made to help defray the cost of the covers and the printing. If no charge is to be made, then an adequate budget allotment to cover such expense should be made for the Legal Economics Committee for 1960-1961.

(2) Further work should be done on preparation of a Desk Manual of selected subject matters. Consideration should be given by the committee to the printing of a Desk Manual for distribution.

(3) A Bar economics questionnaire should be circulated among the attorneys of the State to determine the North Dakota Bar's current economic status with the objective of raising the lawyers income to keep pace with the rising costs. This project has been tried in several other states with excellent response and results.

Respectfully submitted,

Ralph B. Maxwell, Chairman.

LEGISLATIVE

It is the unanimous opinion of members of the Legislative Committee that SBAND should not approach the 1961 Session of the Legislative Assembly as the sponsor of any major legislation. The reason for this position, as emphasized by the committee members also serving as legislators, is that we undertook a very ambitious program at the last session, enjoyed unusual good will of the assembly, and realized greater success than was optimistically expected.

The committee believes that another strong legislative program in 1961 could easily deteriorate the legislative good will found at the last session and even antagonize some legislators.

While it appears that the senate will not want for the service of lawyer members in the next session, the house is definitely losing three of its seven attorneys because they are not seeking re-election. It is the opinion of the Legislative Committee that SBAND should consider offering the services of a small Legislative Committee, any three members who are not legislators, to individual members of the assembly and its committees. Of course the staff of the Legislative Research Committee and the attorney general and his staff are always available to the legislature. Since this help is fully utilized, an offer of further assistance from SBAND would probably produce more good will than work for the named committee.

Your Legislative Committee has received a request to consider legislation prescribing uniform fees to be charged by the offices of

register of deeds throughout the state. In Burleigh County, for example, the register of deeds has prescribed these by mimeographed circular containing 80 itemized charges where Section 11-1805 of the 1959 Supplement, N.D.R.C. 1943, contains only 40. Of the 40 specific charges prescribed by statute, only 34 are listed on the form distributed. In 16 instances, the listed fees are higher than those prescribed by statute, and in one case lower. It can readily be seen that this is more a legislative problem although the statutory schedule may need revision.

The committee has done some work on the Uniform Traffic Code. The Traffic Safety Committee has turned over a guide and format that will greatly facilitate the legislative work. While there is more work to be done on this project than can be accomplished before the 1961 session, it is believed that the assistance of the Legislative Research Committee may be obtained in the same manner as resulted in the revision of our corporation statutes.

Respectfully submitted,

Ralph G. Beede
Lee F. Brooks
Walter O. Burk
Robert L. Eckert
Ralph J. Erickstad
Howard A. Freed
John O. Garaas
Adam Gefreh
John Hjellum
Donald C. Holand
Roy A. Holand
Harold R. Jensen
Harvey B. Knudson
George Longmire
Norbert J. Muggli
Charles L. Murphy
Thomas W. Nielsen
Elton W. Ringsak
Floyd B. Sperry
Jocque G. Stockman
Bruce M. Van Sickle
Aloys Wartner, Jr.
R. W. Wheeler

MEMORIALS & FIFTY YEAR AWARDS

Mr. President, and members of the bar: This is the Report of the Committee on Memorials of the Bar Association of the State of North Dakota.

Your Committee on Memorials has to report that since our last annual session, memorials have been prepared for ten of the bench and bar of North Dakota. These memorials have been prepared for inclusion in the North Dakota Law Review, and the report will not be read from the convention floor.

A list of the departed members of our profession is as follows:

Senator William Langer	C. D. Aaker	J. K. Murray
Judge Andrew Miller	Ernest Paul	J. M. Snowfield
Judge Charles L. Foster	T. L. Brouillard	John A. Alphson
Judge O. B. Burtness	Robert H. Bosard	C. E. Joseph

The members of the Bar who have practiced fifty years in the State are as follows:

P. O. Sathre	Arthur L. Netcher	Harry Lynn
Thos. G. Johnson	Reese L. Phelps	Luther E. Birdzell
Harvey J. Miller	T. S. Stewart	Fordyce Eastvold

The members of the memorial Committee are as follows:

W. F. Burnett	Russell G. Nerison
L. R. Nostal	W. F. Reichert
Everett Palmer	Robert Q. Price
Herschel I. Lashkowitz	George A. Soule
Robert A. Buttz	J. H. Newton
Einar Johnson	Catherine E. Morris
Clyde Duffy	James A. Hyland,
Roy A. Ployhar	Chairman

I move that the report be adopted and included in the North Dakota Law Review.

J. A. Hyland
Chairman
Committee on Memorials

PROCEDURE

The scope of work of this committee, under the reorganization of 1959, covers administrative law, criminal law, judiciary, jurisprudence and law reform, juvenile problems, municipal laws, mineral laws, rules of civil procedure and tax laws. Because of a widespread impression that this committee deals only with rules and procedure, it is desired to emphasize this wide scope, so members may know where to bring these problems.

This committee notified the members of the Association through the newsletter, early in the year, of its desire to hear on proposed changes or projects.

A meeting was held of the committee some months later, on December 11, 1959, at Bismarck.

At this meeting, recommendations of the preceding Rules Committee were discussed. No major rule changes were favored. On the subject of criminal law, discussion was had of the justice court reform law, to be effective 1961, and of the implied-consent law.

At the direction of the committee, the chairman later surveyed district judges of the state, to determine adequacy of chamber libraries. The survey revealed a surprising degree of adequacy, with inadequate libraries found chiefly in smaller chamber cities, the

most inadequate of the larger cities being the chamber library in Bismarck itself.

On mineral law, the chairman has been in touch with Dr. Wilson R. Laird, State Geologist, and intends to cooperate with Dr. Laird in proposed administrative and procedural changes in the field of oil conservation practice before the industrial commission.

On tax laws, the chairman has been in consultation with a committee member, Kenneth Jakes, of the State Tax Department, pertaining to certain procedural aspects of joint tenancy proceedings.

Francis Breidenbach, member of the committee, has made some excellent proposals with regard to considering the Uniform Code of Evidence, which are under study.

Time limitations on the members prevented a second meeting, planned for Fargo in the spring. Another meeting is planned at the opening of the State Convention at Grand Forks.

The staggering of committee membership terms, now in effect, will be of especial value on this committee, which has so many varied projects to cover, some of which require planning and time.

June 1, 1960

Respectfully submitted,
William S. Murray, Chairman.

TRAFFIC SAFETY

The Traffic Safety Committee first met and organized at Grand Forks on October 9, 1959. A second meeting of the Committee was held at Bismarck on December 12, 1959.

At the first meeting, the Committee authorized the study and development of a schedule of recommended average bonds and fines in traffic cases. This major project of the Committee was completed during the year under the direction of Police Magistrate Odin J. Strandness, of Fargo. The Committee obtained statistics from Traffic Court Judges throughout the State, reporting their average bonds and fines, and then combined these statistics into a state-wide average schedule of such bonds and fines. The schedule was then printed and distributed among all Police Magistrates, Justices of the Peace, and County Courts of Increased Jurisdiction, throughout the State.

A second major project was the arranging and sponsorship of the Governor's Fifth Annual Traffic Court Conference, which was held in Bismarck on April 28 and 29. Following the method used during the previous year, the Committee used a contest to promote attendance at the Conference. The County with the best attendance was Grand Forks, and the States Attorney of that County received a gavel as the winning award; 9 Counties failed to send any representatives to the Traffic Court Conference, and such Counties thereby became members of the "Skunked Club." The States Attorneys of each of these nine Counties received a toy skunk as a symbol of their County membership in this exclusive club.

111 persons registered for the Traffic Court Conference, where mutual problems in traffic enforcement and Traffic Court procedures

were presented and discussed. Joe McIntee, Towner, acted as Chairman of the Traffic Court Conference, and was assisted by Justice of the Peace A. T. Hackenberg, Williston, in planning the content of the program. The Committee owes special thanks to our new Executive Secretary, Al Schultz, for the tremendous work he did in making arrangements, handling mailings, and taking care of the thousands of details connected with the Traffic Court Conference.

The Committee did not carry through a proposed schedule of eight District Traffic Court Conferences throughout the State. It was felt that, in view of the new County Justice system which will go into effect July 1, 1961, that the present Justices of the Peace would not attend such local Traffic Court Conferences.

The Traffic Safety Committee has turned over to the Legislative Committee for the purpose of drafting and proposing legislation before the next N. Dak. Legislature, materials for developing a uniform State Vehicle Traffic Code. The Committee recommends that such a Traffic Code become law in North Dakota, and the Committee further recommends that the State Law include a model traffic ordinance which could be adopted by cities, merely by reference to the State Law.

The Committee recommends that a further study be made of our N. Dak. Driver's Licensing Laws, and that the minimum age for youthful drivers be raised above the present minimum age of fourteen years. The Committee also recommends that driver training classes in our Public Schools be encouraged.

The members of this Committee are grateful to the members of the Bar in the various localities, the Peace Officers, local organizations, and all those who took part in Traffic Safety work in the past year.

Respectfully submitted:

David Kessler, Chairman
Traffic Safety Committee

Members of Committee:

Larry Hatch, Linton
Chas. E. Crane, Mott
Robert A. Feidler, Grand Forks
George T. Dynes, Dickinson
Bert L. Wilson, Jr., Bowbells
Carlton G. Nelson, Grand Forks
Odin J. Strandness, Fargo
Edward C. Gillig, Grand Forks
Martin C. Fredricks, Jr., Jamestown
A. T. Hackenberg, Williston
Joseph C. McIntee, Towner
Eugene K. Anthony, Watford City
Wallace L. Herreid, Crosby
David Garcia, Devils Lake

UNAUTHORIZED PRACTICE OF LAW

During the past year the Committee on Unauthorized Practice of Law has had two meetings: Minot, North Dakota, October 30, 1959, and Bismarck, North Dakota, December 10, 1959. In addition to this the various members of the Committee have had frequent telephone and personal conversations with one another and with other lawyers who have presented problems.

The work of this Committee is such that a complete report can not be made public. The Committee has considered and investigated several cases involving the unauthorized practice of law by insurance agents, county officials, real estate dealers and the like. The members of the Committee feel that some progress is being made. However, the problem of unauthorized practice will never be solved. Lawyers will have to be alert at all times and deal with each unauthorized practice of law problem when it arises.

The attention of the members of the Bar is directed to the opinion of the Attorney General dated May 11, 1960, pertaining to the activities of a person who is licensed as a real estate broker. You are urged to read this opinion and study it carefully. Many lawyers have indicated that they believe the opinion is wrong in that it seems to approve what amounts to the practice of law by an unlicensed person if there is no fee charged. Comments from the members are solicited by your Committee.

The Committee can not refrain from mentioning that the full time executive director has been of great help to the Committee, both in investigations and in handling of correspondence. All requests have been promptly attended to by the executive director and complete and prompt reports have been made.

Respectfully submitted,

Ronald A. Heringer
W. T. DePuy
Ray R. Friederich
Glenn K. Swanson
Telmar E. Rolfstad
K. S. Peterson
Q. R. Schulte

Hugh McCutcheon
F. Leslie Forsgren
W. J. Austin
J. O. Thorson
J. F. X. Conmy
Josiah C. Blaisdell
Marshall T. Bergerud
A. J. Pederson, Chairman

MEMORIALS

SENATOR WILLIAM LANGER

WHEREAS, Senator William Langer, one of North Dakota's honored citizens, passed away in Washington, D. C., on November 8, 1959; and

WHEREAS, He served his State as Attorney General, as Governor, and as United States Senator and gave many years of faithful service to the people of North Dakota; and

WHEREAS, The memory of Senator Langer will long remain in our hearts and minds as an efficient, able, conscientious public

servant and a great humanitarian, one beloved by the people of his State; and

WHEREAS, His many years of service to his State as a lawyer and great public servant have won for him a place in the affections of the people of North Dakota;

NOW, THEREFORE, BE IT RESOLVED, By the Burleigh County Bar Association, that we express our deep appreciation for the valuable services rendered in so many ways by our distinguished fellow attorney, and that we extend our heartfelt sympathy at his passing to his relatives and intimate friends.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded by the secretary of this Association to each of Senator Langer's four daughters.

JUDGE ANDREW MILLER

Andrew Miller was born in Denmark on November 16, 1870. He was brought to West Rutland, Vermont, by his parents when he was two years old. Later the family moved to Crown Point, New York, and then on to Bradford, Iowa. When he was 21 years of age he entered the employ of a law firm at Garner, Iowa, and three years later took the Bar examination with a class of the University of Iowa, in Des Moines.

Andrew Miller began the practice of law at Buffalo Center, Iowa in 1894 and served as county attorney for Winnebago County, Iowa and as mayor of Forest City, Iowa, although he was then only in his twenties. In 1905 he came to Bismarck and established a law practice. He was later appointed Assistant Attorney General and thereafter was elected and served three terms as Attorney General of the State of North Dakota, ending his third term in 1914.

In 1915 he and Alfred Zuger established a law firm of Zuger & Miller, in Bismarck, and later joined by B. F. Tillotson in practice. Andrew Miller remained in the private practice until he was appointed to the position of United States District Judge for the District of North Dakota on February 2, 1922 by Warren G. Harding. He served as United States Judge until 1941 when he retired. Judge Miller spent the latter years of his life in his retirement living with his wife at Fort Lauderdale, Florida. He is survived by his widow, his daughter, Eleanor, his son, Max, and his son, Milo.

NOW, THEREFORE, WHEREAS, it has been the will of God to determine the life's journey of one of our beloved members of the Bar and members of the Bench, Judge Andrew Miller, who passed away on March 17, 1960, and

WHEREAS, he did render valuable and outstanding public service as a member of the Bar from 1894 to 1922, and as a member of the Federal Judiciary from 1922 to 1941, and was always cooperative, friendly, courteous, fair and considerate, to all who had business with him and with the Court,

NOW, THEREFORE, BE IT RESOLVED that the members of the State Bar Association of the State of North Dakota do hereby

express their appreciation for the faithful, industrious, loyal service rendered by Judge Andrew Miller, and for the pleasant personal friendships formed with the members of this Association, and we do hereby express our deepest sympathy to the members of his family and our regret at his death, and that this resolution be made a part of the records of the State Bar Association of North Dakota, and that a copy thereof be sent to Mrs. Miller and the family.

C. E. JOSEPH

Funeral services were held Monday, December 7, from the Hoyne Funeral Home at Dayton, Ohio, for Clarence E. Joseph, Cando attorney, who died December 4 at Dayton. Rev. Barr of the Forest Avenue Presbyterian Church was in charge and the Scottish Rites services were also held. Burial was in the Memorial Park Cemetery.

C. E. Joseph was born in Troy, Ohio on November 15, 1877, the son of Joseph and Josephine Joseph. He came to North Dakota in 1901 and in 1903 was united in marriage to Ada Kensinger. They made their home at Bisbee for many years and in 1935 moved to Cando where he resided until two years ago when he retired from practice and moved to the State of Ohio where he died.

Mr. Joseph practiced law in Towner County for thirty-eight years.

He is survived by his wife, a daughter, Evelyn, and a granddaughter, Mary Ellen; a brother, Harry, and a sister, Rebecca.

With his passing the citizens of the state have lost a valued friend and the members of the North Dakota Bar a colleague of highest standing and ability.

THOMAS L. BROUILLARD

Thomas L. Brouillard of Ellendale died at Memorial Hospital in his home City on March 15, 1960 at the age of 77 years, after a brief illness, although he had not been in robust health for several years. He was born in Floyd County, Iowa, Nov. 23, 1882. He was educated in the public Schools of that County. He graduated from College at Charles City, Ia. and then entered the University of Minnesota College of Law, where he received his LL.B. Degree in 1909, coming to Ellendale, North Dakota in June of that year, where he opened a law office, where he practiced his profession for over 50 years and during his entire professional life. In June of 1959 he was presented his 50 year certificate at the State Bar Association meeting at Fargo.

Of these 50 years, he served 18 years as State's Attorney of Dickey County at several intervals, between the years 1921 and 1953. He further served his home City as City Attorney for more than 45 years. As a further service to his Community he gave of his time and talents as a member of the City Park Board for a period of 32 years, this was a service he truly enjoyed as he took great pride not only in the beautification of his City but also in the raising of flowers and shrubs and otherwise beautifying the yard of his residence, where he could usually be found after office hours during the summer months.

In addition to his other many services for his City, County and Community he served his County as Appeal Officer for Selective Service for 18 years from 1940 to 1958.

He was honored by his profession in the 3rd Judicial District by being elected President of the District Bar Association which he served for 1 year. He also served as a member of the Executive Board of the State Bar Association.

On June 9, 1916, at Ellendale, he was united in marriage with Opal E. Montague. He is survived by his wife and one son, Thomas Montague Broullard of San Fernando, Calif., two daughters, Mrs. Morris (Jane) Wanaka, of Huron, S. D. and Mrs. T. A. (Janet) Bunn of Laredo, Texas, and nine grandchildren.

He was a member of St. Helena's Catholic Church at Ellendale and served as one of its trustees for over 30 years.

From the cataloguing of these activities in the Community, City, County, Church and his Country, it becomes clear that he rendered service far beyond and above the usual activities rendered by a majority of the members of the legal profession and certainly far beyond that of the average citizen. His record of service, not only as a dedicated public official, but as a public spirited citizen and as a worker for civic improvement and a more wholesome world, mark him as one who could well be emulated by all the younger lawyers. It is also well known among his professional associates that he adhered meticulously to the ethics of our profession. As a prosecutor he was fearless, but always fair, never allowing his enthusiasm to outweigh his sense of justice and fairness. To his fellow practitioners he was ever courteous, upright and honest. For that was his way of life.

There is nothing in his record that needs be expunged. It is an open book for all to read. It is such that his fellow members of the bar, his friends and family can freely, openly and proudly open for all the world to see.

JOHN KENNETH MURRAY

Appearing in the July, 1960 Issue, N. D. Law Review.

ERNST J. PAUL

Ernst J. Paul, a member of the North Dakota Bar since 1949, passed away on March 10, 1960, at the University of Minnesota Hospital at Minneapolis. Although not in the best of health for the past year, Mr. Paul's death came as a great and sudden shock to his family and many friends.

Mr. Paul was born September 26, 1921, at Bismarck, North Dakota. He graduated from Bismarck High School and the University of North Dakota Law School, receiving his B. S. degree in 1947 and his Juris Doctors degree in 1949. Following his admission to the Bar he was appointed to the Attorney General's staff and in 1951 became Assistant Director of the State Legislative Research Committee. He moved to Mandan in August of 1952 where he was engaged in an active practice until the time of his death.

On April 22, 1948, Mr. Paul was married to Miriam Rodgers at Grand Forks, North Dakota, who survives. One child was born to this union, a son, John, 3; also surviving are his mother, Mrs. H. E. Paul of Bismarck and a brother, Jack of Mandan.

Mr. Paul was a member of the Order of Coif, the First Congregational Church of Bismarck, where he served as trustee for three years, and also a moderator of the Church, the American Bar Association, the Elks Lodge, the American Legion, and was a director of the Mandan Security Bank. He served as a U. S. Air Force Captain in World War II.

Funeral services were held in the First Congregational Church of Bismarck, and interment in Fairview Cemetery.

ROBERT H. BOSARD

Robert H. Bosard, attorney of Minot, North Dakota, died at his home in Minot, on September 24, 1959. At the time of his death he was eighty-four (84) years of age. Ordinarily called "Bob" by his friends and associates, he came to Minot to make his home in the year 1906, at that time a young lawyer of nine years experience.

While Mr. Bosard was a Minot citizen, a fact of which he was undeniably proud, it might also be said that he was a symbol of the pioneer North Dakota Spirit which tamed a prairie country.

He was considered far and wide as the "dean" of Minot attorneys because of his long practice in the city. At a dinner given by the Ward County Bar Association in 1958, he was honored as a member of the Bar who had served in the law practice more than fifty years.

Mr. Bosard was born in Wellsboro, Pa., on April 28, 1875, and came to Grand Forks with his parents while a boy of the age of four. That was before the first railroad reached Grand Forks and ten years before the territory became a state. The family arrived in Grand Forks by stage coach.

His father, James Huntington Bosard, was one of the state's first lawyers and judges.

As a youth, Mr. Bosard attended both NDAC and the University of North Dakota, then received his LL.B. in June, 1897, from the Columbian law school Washington, D. C. later renamed George Washington University. He was admitted to law practice in June of 1897.

Mr. Bosard was first appointed as city attorney in Minot in 1908, serving from 1908 to 1910, again from 1923-26 and was appointed again in 1945 serving until 1957. The veteran attorney was replaced in the city attorney's office by his law partner Hugh McCutcheon, but continued to serve as assistant city attorney.

Many honors came to "Bob" Bosard during his life time. He was a past president of the Ward County Bar Association, and was honored at the University of North Dakota when he received an honorary membership into the UND Chapter of the Order of the Coif, national law society.

Members of the law profession regarded him as a leading figure

in government and business affairs, and the general opinion was that he made a great contribution to the welfare of his community in every respect during his career.

Survivors include two sons, John H. of Palm Springs, Calif., and Richard M., Minneapolis attorney, a niece Mary Louise Mitchell of Minneapolis and a brother, Gerald Bosard of Warren, Minnesota.

JUDGE OLGER BURTON BURTNESS

Olger Burton Burtness, Judge of the District Court, First Judicial District, died at Grand Forks on January 21, 1960, after a brief illness.

Judge Burtness was born on a farm at Mekinock on March 14, 1884, and lived his entire life in Grand Forks County.

He attended the rural school at Mekinock, the preparatory school at the University of North Dakota, and the University, where he earned the degrees of B. A. in 1906 and LL.B. in 1907.

Judge Burtness was admitted to the bar in 1907 and immediately entered into the practice of law at Grand Forks.

A distinguished lawyer with an extensive general practice, he was nevertheless always available for public service. During his fifty-three years at the bar, he served as States Attorney of Grand Forks County from 1911 to 1916, as a member of the Legislature in 1919-1920, City Attorney of Grand Forks 1934-1935, and for six terms, 1921-1933, he was a member of Congress.

In September 1950 Governor Fred G. Aandahl appointed him as District Judge to succeed Judge P. G. Swenson, who had retired. Upon the expiration of Judge Swenson's term in 1952, he was elected to the office and in 1958 he was re-elected.

During his ten years on the bench, Judge Burtness acquired a wide reputation as an able jurist with a profound and human sense of justice.

He was a member of many organizations, including the Masonic Lodge, Shrine, Sons of Norway, Yeomen, Phi Delta Theta, Phi Alpha Delta, Phi Beta Kappa, Delta Sigma Rho and Order of the Coif, and he was decorated by the Icelandic Government as Grand Knight, with Star, of the Order of the Falcon.

On September 8, 1909, he was married to Zoe Ensign, who survives him.

As a lawyer, public servant, jurist, and citizen, Judge Burtness has left a lasting mark upon his community, state and nation.

JOHN A. ALPHSON

John A. Alphson died June 8, 1960.

Mr. Alphson was born at Trondheim, Norway, on December 8, 1883, and came to the United States with his parents in 1892. He received his grade school education in Norway and in this country attended St. Olaf College, at Northfield, Minnesota, and Augsburg Seminary, Minneapolis, before enrolling at Valparaiso University where he received his Bachelor of Laws degree in 1909.

After five years of practice in Evansville, Indiana, he moved to Grand Forks in 1914 and was engaged in the active practice of law at Grand Forks until his retirement in 1956. He served as Police Magistrate of Grand Forks from 1942 to 1956.

In his later years he was associated in the practice of law with his daughter, Grace Alphson Melgard, and his son, Robert A. Alphson.

In addition to the practice of law he was active in many business and fraternal organizations, having served as president of the National Tranderlag, the Sons of Norway Lodge, the fourth district of the Sons of Norway, and Deaconess Hospital, and for many years was a director of the Chamber of Commerce and the Board of Trustees of the Grand Forks Home for the Aged. For many years he served as United States Commissioner and he was a member of the Grand Forks County, the North Dakota, and the American Bar Associations.

He is survived by his widow, the former Dagny Christensen, three sons, three daughters, five brothers and five grandchildren.

JUDGE CHARLES L. FOSTER

Judge Charles L. Foster, a member of the North Dakota bar for more than forty-five years, died at Bismarck, North Dakota, on January 5th, 1960, as a result of a heart attack.

Judge Foster was born on a farm near Pomery, Iowa, on the 20th day of February, 1886, the son of Mr. and Mrs. Jacob Foster. He was the youngest of five children, which included three brothers and a sister. He attended grade school and three years of high school at Pomery, Iowa, and 1903 graduated from high school at Monticello, Minnesota.

Following his graduation from high school, Judge Foster worked for a canning factory at Pomery, Iowa, for a bank at Knieram, Iowa, and was plant manager of a canning company at Monticello, Minnesota. Later he was production superintendent for another canning company at Mount Pleasant, Iowa. The Judge enjoyed recalling his early days in the canneries, and particularly an account of one time when he nearly lost his life in an accident.

Judge Foster was married to Ethel Stewart on August 5th, 1913, while he was living in St. Paul and working for a lumber yard as an estimator. He worked days in the lumber yard and attended law school at night at the St. Paul College of Law, from which he graduated in 1914. He was admitted to the practice of law in the states of Minnesota, Florida and North Dakota.

Judge Foster was very proud of the St. Paul College of Law, and was host each year at the annual meeting of the North Dakota State Bar Association for all graduates of his Alma Mater, and a number of other attorneys in the state who enjoyed his hospitality.

In January 1915, Judge and Mrs. Foster, and their only daughter, Betty, located in Turtle Lake, North Dakota, where he started the

practice of law. He became city attorney and carried on a general practice until the year 1923, when he moved to Bismarck, and became associated with James A. Hyland in the law partnership of Hyland and Foster, which continued until he was appointed to the judgeship of the Fourth Judicial District.

In 1933, Judge Foster was appointed city attorney of Bismarck, in which position he served until his election to the district bench. He also served as city attorney for a number of neighboring cities and took an active part in the North Dakota League of Municipalities, being a member of its Board of Trustees, and of the National Institute of Municipal Law Officers.

In 1949, Judge Foster was appointed President of the State Bar Board by the Supreme Court of North Dakota, and served in that capacity until his death. Throughout that period he was intensely interested in the training of young men for the Bar, and worked closely with the law school in its work of training young men for the legal profession. In recent years he volunteered to go to the law school with his court reporter annually to help the students and train them in making a record in a court proceeding and giving them assistance with actual practice. Judge Foster's devotion to young lawyers was recognized in 1952, when he was made a member of the Order of the Coif, an honorary membership awarded annually to a member of the bar.

Judge Foster spent the greater portion of his career as a practicing lawyer in Bismarck. He was very successful in the practice of law, and established a reputation as an able lawyer of the highest integrity. In the summer of 1955, he was appointed as Judge of the Fourth Judicial District of the State of North Dakota, in which capacity he served with honor. His term on the bench fulfilled his fondest hope that he would always be a kind, considerate and just judge, to the end that the lawyers who selected him and the Governor who appointed him never had occasion to regret their actions. He was considerate of jurors and court personnel, and most helpful to the younger men engaging in the practice of law. The law was his life, he was conscientious in his work, and most generous of his time, his wise counsel, and in a financial way, to those less fortunate. He attributed his success to the assistance of his wife and lifemate, Ethel, who worked for many years in his office.

Judge Foster was a member of the Burleigh County Bar Association, the Fourth Judicial District Bar Association, and the State Bar Association of North Dakota, and the American Bar Association, serving the first three as president at different times. At the time of his death he was secretary of the National Conference of Bar Examiners. He had served in both World Wars with the draft boards of McLean and Burleigh Counties. He was a member of the Masonic Lodge No. 5 AF & AM, and of the Shrine.

Judge Foster is survived by his wife, and one daughter, Mrs. Joseph D. Byrne of Bismarck, and three granddaughters. Funeral services were held on Saturday, January 9, 1960, in the McCabe Methodist Church, and burial in St. Mary's Cemetery, at Bismarck.

CASPER D. AAKER

Casper D. Aaker, a more than half century practitioner, for fifty-four years a resident and attorney in Minot, passed from this life at Trinity Hospital in Minot in the early morning of Sunday, May 8, 1960.

Mr. Aaker was born of Norwegian descent at Ridgeway, Iowa, on August 30, 1883, the son of Mr. and Mrs. D. O. Aaker. Following his graduation from Luther College at Decorah, Iowa, with a Bachelor of Arts degree in 1902, he entered the University of Minnesota and obtained his law degree there in 1905. A year later he came to Minot and commenced his practice of law.

Married to Leda Marie Mansfield at Minot on December 16, 1914, there were born to them three children; one daughter, Mrs. J. R. Mackley of Minot and two sons, William C. Aaker of Dallas, Texas, and John R. Aaker of Bridgeport, Connecticut. These children survive with the mother and nine grandchildren to mourn the loss of the father, husband, and grandfather.

Mr. Aaker was highly regarded by the other members of the legal profession and the public for his legal ability. He was especially keen on legal issues involving property law.

Through the years, he was known to most people as "Cap" and was very distinguished in appearance, usually not without his familiar goatee.

The City of Minot was in only the twentieth year of its existence when Cap Aaker came to open his law practice. Through all the years, he was active in promoting the city welfare as well as its growth. When Trinity Hospital was established in 1922, he became the first secretary of the board of directors and remained in that position until January 1, 1959. Since then he held the title of Secretary Emeritus. When the John Moses Veterans' Memorial Hospital (now operated by the Air Force) was to be built in Minot, he was a member of an Elks Lodge committee which proposed to the lodge that the Elks purchase the site for the hospital and present it without cost to the Federal Government. The lodge approved the committee's proposal in December, 1945 and spent more than \$40,000 in acquiring the twenty acre site.

In 1948 Mr. Aaker was one of the fifty persons in the United States and Canada designated as outstanding contributors to "health and hospitals" by the American Hospital Assn. The fifty were made honorary members when the association met in convention at Atlantic City, New Jersey.

In Republican politics, Mr. Aaker was especially active, but never sought political office and during his active life held only one government position—that one without pay. In July, 1953, he was named special assistant to the U. S. attorney general in North Dakota which involved conducting of hearings for conscientious objectors and others seeking exemption from the draft. The appointment was made by Herbert Brownell, then U. S. attorney general.

He served a term as president of the Chamber of Commerce and was a member of its board of directors for a total of sixteen years. When the Minot Elks Lodge established its home in Minot in 1909, Mr. Aaker was a member of the first class admitted to membership there. He took his first assignment that same year as organist for the lodge and served continuously in that capacity for nearly fifty years. In 1953, in recognition of his long service as organist as well as his other activities, Mr. Aaker was "elected" Exalted Ruler of the Elks for a day, a surprise honor. Two years later he was elected president of the Past Exalted Rulers Association of the Minot Elks Lodge.

He was an enthusiastic participant in and supporter of music. More than forty years ago he took a leading part in forming a symphony orchestra in Minot which included a number of professional players and was conducted by a former member of the Minneapolis Symphony Orchestra. In earlier years, he was very active in booking well-known musicians and musical organizations for appearances in Minot.

As a sportsman, he was enthusiastic and especially so about baseball and hunting. He was a spark plug in the promotion of early-day baseball in Minot and his interest in the game and in fielding teams in Minot never flagged.

Mr. Aaker had been hospitalized since January 21 and had been in failing health during recent years. Last rites were held in First Lutheran Church in Minot on Tuesday afternoon, May 10, and the body was laid to rest in Rose Hill Cemetery situated on South hill in Minot. He is now departed from our midst, but the genuine and lasting service rendered to the people of the City and the Northwest area is forever written in the annals of Minot history.

BESSIE SPANGLER OLSON

Bessie Spangler Olson was born at Steele, North Dakota, on December 23, 1895. The family moved to Bismarck, North Dakota, where she attended school, graduating from the Bismarck High School and taking further training in shorthand, typing and accounting. In 1922 she came to Fargo and obtained a position with the law firm of Conmy, Young & Conmy which later became Conmy & Conmy, continuing in that firm until her death on November 10, 1959. She was admitted to the bar in 1934 and became a member of the firm of Conmy & Conmy on January 1, 1951.

Bessie Olson was highly skilled as an accountant and secretary and after being admitted to the bar specialized in probate and tax law.

Bessie Olson was very active in her church and in community affairs and possessed a very warm and appealing personality. She had strong convictions and was out-spoken in defense of the things she felt were right and critical of the evils and dangers of our days. She was especially militant against the encroachment of communism and allied evils and during the last several years of her life was

very active and out-spoken privately and at public meetings in an effort to arouse the people of her community to a realization of the dangers thereof. She would not compromise with principle or yield to expediency but because of her pleasing and persuasive manner retained the good-will of all with whom she dealt.

She left surviving her a daughter, Mary South, and two grandchildren residing at Atlanta, Georgia.

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J. M. SNOWFIELD

I am glad to write a memorial of the good life of my fine former partner, Johannes M. Snowfield, commonly known as "Joe", whose unexpected death from a cerebral hemorrhage occurred July 17, 1959.

Mr. Snowfield was born at Mountain, North Dakota, on March 3, 1891. His parents Magnus and Gudbjorg Snowfield were Icelandic pioneers who homesteaded near Hannah, North Dakota, in 1899. After completing his common school education in Byron Township he finished his education at the University of North Dakota, receiving his A.B. in 1916 and his LL.B. in 1917. His extracurricular activities were in music and debating. He was a member of the University Men's Glee Club, the Law School Quartette, the Hesperia Debating Society, the Delta Sigma Rho, the University Debating Team and Sigma Alpha Epsilon. He won several debates and oratorical prizes. He was in demand for singing and speeches all through his career.

Mr. Snowfield entered the military service in April 1918 at Logan, Colorado. After training he served as First Sergeant of Company E of the 8th Ammunition Train, Artillery Corps, 8th Division at Camp Fremont, California. He was enroute overseas on the Atlantic at the time of the armistice and returned for discharge at Camp Dodge, Iowa, completing his military service in February, 1919.

On his graduation and admission to the bar in 1917, Mr. Snowfield entered into partnership with me in the law firm of Grimson and Snowfield at Langdon, North Dakota. Excepting the time he served in the army that partnership continued happily until I was appointed District Judge in 1926. Then Harry W. Stewart of Nekoma, North Dakota, became his partner until Mr. Stewart's death in 1936. Mr. Snowfield's brothers, Fred and Ellis, were also associated with him—Fred, until he bought his own practice at Cavalier, North Dakota, and Ellis who entered into the partnership in 1938 and remained with him in that practice until his death in 1955.

Finally, his son, John, on his admission to the Bar in December, 1958, joined the firm and now carries on that law business at Langdon, North Dakota.

Joe Snowfield and Ruth Martineson were married in Minneapolis, Minnesota, on December 10, 1924. To that union were born two children: Mrs. Kenneth Sletten (Jean) and John Snowfield. Mrs. Snowfield and the two children survive him, as well as three grandchildren and one sister, Mrs. F. M. Einarson, of Mountain, North Dakota, and one brother, Thorarin, of Langdon, North Dakota.

Mr. Snowfield was states attorney of Cavalier County for 24 years. He prosecuted law violators without fear or favor but justly and honestly. He served as Home Service Chairman of the American Red Cross for 40 years, and as Cavalier County Chairman of the War Bond Drive, and in these capacities did a wonderful service during World War II.

Mr. Snowfield was a member and devoted worker of the Episcopal Church at Langdon. He was a Mason, Member of the Scottish Rite Bodies, Kem Temple, and Forty-nine Shrine Club. He was also a veteran member of the Langdon Post No. 98 American Legion and the Cavalier Last Man's Company WWI.

Mr. Snowfield was an able and hard working attorney. He was well grounded in the principles of law and equity. Honesty, uprightness, fairness, and justice were his guiding principles. He liked people and people liked him. The fact that they elected him states attorney twelve times which was as long as he would accept it, shows that they had confidence in him and trusted him. They had always found him congenial and glad to talk to them. They found he was a dependable counsellor and always willing to help.

As the Cavalier County Republican, under date of July 23, 1959 well said: "He crowded the long hours he spent at his practice by serving his county, his community, and his fellow men with unusual liberality of his time and energy . . . probably no Cavalier County man has ever left a larger accumulation of good deeds and grateful remembrances."

G. GRIMSON. *

*Formerly Chief Justice, N. D. Supreme Court